

Utah WIC Policy and Procedures Manual

Section F: Vendor Management

F. VENDOR MANAGEMENT

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F.1. Description of Utah Food Delivery System

Policy

Utah utilizes a retail purchase delivery system. This system is implemented with the use of the Utah WIC ID Packet and the redemption of WIC Checks at Utah authorized vendors.

Procedure

- I. At the WIC vendor, the participant exchanges the WIC check for the appropriate authorized WIC food item(s) in the quantities and sizes specified on the check. The vendor ensures that the check is properly completed and the authorized signature is obtained on the front of the check. The vendor places their specific authorized vendor identification number/date used stamp on the check and deposits the check into the bank similar to other checks. The bank screens for the following edit criteria and rejects the check if any of the following are determined:
 - a. Missing or unauthorized vendor number stamp;
 - b. Missing or unauthorized authorized signature;
 - c. Missing or altered purchase price/amount;
 - d. Alteration of food item quantities;
 - e. Checks redeemed prior to the First Day To Use, after the Last Day to Use, and more than 60 days from the First Day To Use;
 - f. Checks redeemed greater than three standard deviations of the food item average cost based on the vendor peer grouping or greater than the maximum value of the check (\$120). Cash-value vouchers redeemed greater than the specified maximum value in the description line;
 - g. Checks that have no record of issuance by the local clinic;
 - h. Checks that have been voided by the clinic as "S" Stolen;
 - i. Checks that have been identified as a "stop payment" by the State Agency;
 - j. Checks missing the date of transaction imprinted on the front of the check ; and
 - k. Checks with any handwriting of the vendor ID number or the date redeemed. Any checks with any completion of an unreadable stamp or change to correct a date with handwriting.
- II. If all edit criteria are met, the Bank pays the check. If any edit criteria is missing or incorrect, the bank returns the check to the redeeming vendor unpaid.
- III. Multiple check issuance: Checks may be issued to participants either one, two, or three months at a time. All checks will be printed with a "First Day to Use" and a "Last Day to Use" and must be redeemed within the acceptance period that is indicated.

F.2. Definitions in Food Delivery

Policy

Definitions in Food Delivery

Procedures

- I. **Utah WIC Vendor** - a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores, transacting WIC and non-WIC food commodities, having at least one cash register, reporting Utah state sales tax, providing food sales on a year-round basis (excluding holidays or Sundays), and be authorized by the State agency to provide approved supplemental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and must be authorized separately from other stores operated by the same business entity. New applicants and currently authorized vendors must stock and provide a variety of foods in each of the following staple food groups on a continual basis: a minimum of 10 lbs of meat, poultry or fish; bread and cereal; fresh fruits/vegetables, dairy, and baby foods (fruits/vegetables and meats); operate from a fixed, retail location; have a valid license to operate a business in the State of Utah; and have, as a minimum, at least fifty percent (50%) of their shelf space designated to the sale of non-WIC food items and non-WIC food transactions must be at least fifty percent (50%) of total food sales (including infant formula).
- II. **Food Delivery System**- The method used by State and local agencies to provide supplemental foods to participants.
- III. **Food Instrument (FI)**- A voucher, check, electronic benefits transfer card (EBT), coupon or other document which is used by a participant to obtain supplemental foods. The term Food Instrument is used to refer to the type of Utah WIC check that contains a list of WIC foods to be purchased including sizes and quantities.
- IV. **Cash-value vouchers** – A fixed-dollar amount check, voucher, electronic benefit transfer (EBT) card or other document which is used by a participant to obtain authorized fruits and vegetables. The term Cash-Value Voucher is used to refer to the Utah WIC check type that has a maximum value printed on the check for the purchase of fruits and vegetables.
- V. **Check**- This term refers to both WIC Food Instruments and Cash-Value Vouchers.
- VI. **Redemption period**- The date by which the vendor must submit the check for redemption. This date must be no more than 60 days from the first date on which the check may be used. (7 CFR 246.12 (a) (2) (iv.)). If the date is fewer than 60 days, then the State agency must ensure that the allotted time provides the vendor sufficient time to submit the check for redemption without undue burden;

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- VII. **Inventory Audit** – The examination of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient enough quantities of WIC food items to provide participants the quantities specified on checks redeemed by the vendor during a given period of time.
- VIII. **Authorized supplemental foods** – Those WIC food items authorized by the State Agency for issuance to a particular participant.
- IX. **Compliance buy** – A covert, on-site investigation, in which a representative of the Program poses as a participant, parent or caretaker of an infant or child participant, or proxy, transacts one or more checks and does not reveal during the visit that he or she is a program representative.
- X. **Vendor Overcharge** – Intentionally or unintentionally charging the State agency more for authorized WIC food items than is permitted under the vendor agreement. For mandatory sanctions to be assessed against a vendor, overcharging must be established by a pattern of redemptions.
- XI. **Vendor violation** – Any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or Federal or State statutes, regulations, policies, or procedures governing the Program.
- XII. **Investigation** – a method used by the State Agency to determine if violations are occurring.
- XIII. **Violation** – an infraction of program regulations, policies or agreements.
- XIV. **Sanction** – an administrative action taken as a result of a violation.
- XV. **Pattern** – repeated incidences of the same violation; sanctions are based on the number and severity of the incidences of the violation.
- XVI. **Inadequate Participant Access** – An undue hardship for participant access will be defined as if there is no other WIC authorized vendor within twenty (20) miles.
- XVII. **Food Sales** – The total dollars of all foods that are eligible items under the Supplemental Nutrition Assistance Program (SNAP/FOOD STAMP PROGRAM). – These foods are intended for home preparation and consumption and include meat, fish, and poultry; bread and cereal products; dairy products; fruits and vegetables. Items such as condiments and spices, coffee, tea, cocoa, and carbonated and noncarbonated beverages are included in food sales only when offered for sale along with foods in the four primary categories. Food sales do not include of any items that are not approved for purchase with Supplemental Nutrition Assistance

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Program (SNAP/FOOD STAMP PROGRAM) benefits, such as non-food items, alcoholic beverages, hot foods, or food that will be eaten on the store premises.

XVIII. **Above-50% Vendors** – Vendors that derive more than 50 percent of their annual food sales revenue from redemption of WIC checks, and new vendor applicants expected to meet this criterion under guidelines approved by FNS, are defined as above-50-percent vendors.

XIX. **Store brand/Private labels** – (A brand owned not by a manufacturer or producer but by a retailer or supplier who gets its goods made by a contract manufacturer under its own label)

A store brand (also called a private label) **MUST** be purchased when indicated in the Authorized WIC Foods booklet. Some examples of store brands/private labels include: Western Family, Kroger, Albertsons/Essential Everyday, Great Value, Market Pantry, Hy-Top, (Malt-O-Meal bag cereals are authorized under this definition), other store brands/private labels may be available. If a store carries more than one store brand/private label then either product may be purchased regardless of price. If the store does not carry a store brand/private label for the WIC food item, then the cheapest brand name food item (such as Skippy, Kraft, Meadow Gold, etc.) can be purchased.

For cold cereal, full strength juice and frozen juice only, the WIC client **MUST** purchase an authorized store brand or private label (Western Family, Kroger, Albertsons/Essential Everyday, Great Value, Market Pantry, Hy-Top, Malt-O-Meal bag cereals are authorized under this definition) and cannot substitute a brand name (Kelloggs, General Mills, Post, Quaker Oats, Juicy Juice, Welch's, etc.). If the State WIC Office has determined that a retailer cannot obtain a store brand or private label cereal or juice, then a separate card will be given to the WIC participant indicating what can be purchased at those retailers

XX. **Farmer** - An individual authorized by the State agency to sell eligible fruits and vegetables to participants at a farmers' market or roadside stands. Individuals, who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be authorized.

XXI. **EBT** – Electronic benefits transfer card

F.3. Names of Companies Participating in Food Delivery

Policy

Utilization of companies participating in food delivery in the State of Utah
Department of Health

Procedure

- I. **Banking redemption/rejection:** Solutran, Inc., **Citizen's Alliance Bank**, Howard Lake, Minnesota.
- II. **Infant formula rebate** - Primary contract infant formula: Milk-base infant formula – Similac Advance Early Shield (Abbott Nutrition); Soy-base infant formula - Similac Soy Isomil (Abbott Nutrition)

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F.4. State Agency and Local Agency Responsibilities in Vendor Management

Policy:

Define the responsibilities of the State Agency and Local Agency in food delivery and vendor management.

Procedure:

RESPONSIBILITY	STATE AGENCY	LOCAL AGENCY	BOTH
Vendor Authorization	Accept all initial applications; Review Limitation Criteria; Authorize an appropriate number and distribution of vendors After Limitation Criteria acceptance, send letter to local agency retail coordinator regarding the need to review Minimum Authorization Criteria & perform on-site visit.	Responsible for all on-site pre-authorization initial evaluations assigned by the State agency. Visit vendor for verification of Authorization Criteria and required initial training	Assess and clarify any difficulties regarding the initial authorization criteria.
Vendor Agreements	Revise Utah WIC Vendor Agreements every 3 years per Federal Regulations and upon approval by USDA. Renewal of all Utah WIC Vendor Agreements every three years	Notify the State of vendors that have closed, changed ownership and/or who are not in compliance with the Utah WIC Vendor Agreement.	Determine the effectiveness of the Vendor Agreement provisions.

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RESPONSIBILITY	STATE AGENCY	LOCAL AGENCY	BOTH
Vendor Complaints	Accept, investigate, and resolve all vendor related complaints. All vendor complaints received by the State Agency will be resolved by the State WIC office, referred to back to the local agency, or to USDA within ten (10) working days of acceptance or notification.	Accept, investigate, and resolve all vendor related complaints received from the State Agency, participants, vendors, or other means. All vendor complaints will be resolved by the local agency or referred to the State WIC office within ten (10) working days of acceptance or notification.	Resolve complaints within the timeframes.
Vendor Training	<p>Develop and annually revise the Vendor Management Module for local agency retail coordinators.</p> <p>Assign vendor monitoring/training/follow-up visits to local WIC agencies for on-site pre-authorization visits, routine monitoring visits, non-compliance follow-up, complaints, and other applicable requirements.</p> <p>Provide annual vendor training requirement for all Utah WIC Vendors.</p> <p>Provide technical assistance to local agencies in completion of the three (3) year interactive training</p>	<p>Completion of the Utah WIC Vendor Management Module each fiscal year or as designated by the State Agency.</p> <p>Responsible for all monitoring/training assigned by the State agency. On-site pre-authorization visits, routine monitoring visits, non-compliance follow-up, complaints, and other applicable requirements. Visit the stores and performs monitoring, data collection on food items available at the local vendors and provide effective vendor training to employees in accordance to the training outline.</p> <p>The local agency has no requirement for annual WIC Vendor training</p> <p>Provide three (3) year interactive vendor training as assigned by the State agency</p>	<p>Keep WIC vendors informed on pertinent Food Delivery Regulations, WIC check cashing procedures & updates.</p> <p>Determine the effectiveness of vendor training.</p>

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RESPONSIBILITY	STATE AGENCY	LOCAL AGENCY	BOTH
Vendor Monitoring	<p>Determine high risk vendors on a monthly and/or quarterly basis.</p> <p>Select on-site monitoring visits for annual routine sample requirement</p> <p>Submit a summary of the results of the monitoring of vendors to FNS annually (TIP Report). Plans for improvement in the coming year shall be included in the State Plan</p>	<p>Responsible for all monitoring visits assigned by the State agency. Monitor the stores in their areas as directed by the State Agency</p> <p>Monitor the vendors assigned by the State agency & submit documentation of the results of the monitoring visits to the State agency</p>	<p>Determine the effectiveness of monitoring visits.</p>
Vendor Violation Points & Sanctions	<p>State Agency will determine and assign all Federal and State Agency Violation Points and Sanctions including Civil Money Penalties and disqualifications.</p>	<p>Local Agency may be asked to obtain and document objective data regarding vendor actions on which violation points and/or sanctions and/or disqualification may be based.</p>	<p>Collaboration in obtaining evidence.</p>

F.5. Authorized WIC Vendors and Vendor Lists

Policy

Authorized WIC Vendors in Utah and Utilization of Vendor Lists

Procedure

- I. In order to accept Utah WIC checks, vendors must sign an agreement with the State WIC Office. It is the responsibility of each local agency to educate the WIC participants as to which vendors are authorized.
- II. To enable a participant to locate authorized WIC vendors:
 - a. Vendor lists will be provided to local clinics quarterly with monthly updates if needed.
 - b. Vendor lists and monthly updates will be posted for participants to review. The vendor lists are shown to the participant during check issuance. Not all stores are authorized Utah WIC vendors.
 - c. WIC vendors will display the authorized WIC window sticker/poster in a prominent place in their store.

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F.6. Purchase of Infant Formula by WIC Vendors

Policy

A vendor authorized to participate in the WIC Program shall only purchase infant formula from State Agency approved wholesalers, distributors, and retailers licensed in the State of Utah or any other State and in accordance with appropriate State law and infant formula manufacturers registered with the Food and Drug Administration that provide infant formula.

Procedure

- I. A current list of licensed and State Agency approved wholesalers, distributors, retailers, and FNS-approved infant formula manufacturers are available from the WIC State Agency website <http://health.utah.gov/wic/vendors.html>.
- II. This list will not include licensed wholesalers, distributors, or retailers that do not sell infant formula. (The infant formula list requirement in P.L 108-265 and Policy Memorandum 2005-1, Implementation of Certain WIC Vendor Provisions of P.L. 108-265, issued on December 6, 2004, applies to "infant formula" as defined in 7 CFR 246.2 of the WIC regulations, including both "contract brand infant formula" and "non-contract brand infant formula" approved by the State agency, but not including "exempt infant formula," or "WIC-eligible medical foods," as also defined in 7 CFR 246.2).
 - a. If the distributor/wholesaler is out of state, that distributor/wholesaler must supply a business license number for the state of operation.
- III. If a vendor indicates that they are purchasing infant formula from a distributor/wholesaler that is not on the authorized list, then the initial vendor application will be rejected. For authorized vendors, this information is collected with each price survey, on all monitoring visits, and at any other time requested by the State Agency.
- IV. If the authorized vendor indicates that they are obtaining product from a different distributor/wholesaler than what is on the State Agency authorized list, then the vendor is sent a letter requesting the name, address, state, zip, and license number of the distributor be sent to the State Agency within thirty (30) days. In consultation from the Utah Food Industry and State Tax Commission, the State Agency will determine if this distributor/wholesaler is valid. If approved, they will be added to the list. If The Utah Food Industry or the State Tax Commission determines that this is an invalid distributor/wholesaler, then the vendor will be notified and requested to change distributors/wholesalers. If the vendor does not respond within thirty (30) days, State Agency Violation Points or Sanctions will be applied.

F.7. Confidentiality of Vendor Information

Policy

Vendor Information that is considered confidential

Procedure

- I. Confidential vendor information is any information about a vendor (whether it is obtained from the vendor or another source) that individually identifies the vendor, except for vendor's name, address, telephone number, web-site, e-mail address, store type, and authorization status. Except as otherwise permitted, the State agency must restrict the use or disclosure of confidential vendor information to:
 - a. Persons directly connected with the administration or enforcement of the WIC Program or the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) who the State agency determines have a need to know the information for the purposes of these programs. These persons may include personnel from its local agencies and other WIC State and local agencies and persons investigating or prosecuting WIC or Supplemental Nutrition Assistance Program (SNA) violations under Federal or State law;
 - b. Persons directly connected with the administration or enforcement of any Federal or State law. Prior to releasing the information to one of these parties (other than a Federal Agency), the State Agency must enter into a written agreement with the requesting party specifying that such information may not be used or re-disclosed except for the purposes directly connected to the administration or enforcement of a Federal, or state or local law or ordinance.
 - c. A vendor that is subject to an adverse action, including a claim, to the extent that the confidential information concerns the vendor subject to the adverse action and is related to the adverse action (7 CFR 246.26 (e)(1)(2)(3)).
 - d. At the discretion of the State agency, disclosure of all authorized vendors and vendor applicants that have State Agency violation points and/or sanctions which have been imposed will not be given except for only the vendor's name, address, length of the disqualification or amount of the civil money penalty, and a summary of the reason(s) for such sanctions provided in the notice of adverse action. Such information may be disclosed only following the exhaustion of all administrative and judicial review, in which the State agency has prevailed, regarding the sanction imposed on the subject vendor, or the time period for requesting such review has expired.

F.8. Vendor Requests for Participant Identity

Policy

Vendor requests for participant information or identity

Procedure

- I. State or local agencies may not disclose participant information, identity, or Program status to any vendor. All clinic and participant related information should be considered private and confidential. Please refer any vendor request for participant identity or Program status to the State WIC Office.

F.9. Maximum Allowable Reimbursable Amount

Policy

The maximum allowable amount a vendor can be reimbursed for any food instrument is based on their peer group and the maximum estimated cost of the food instrument sent to the bank as a pay/no pay limit. The cash-value voucher is a fixed amount as printed on the front of the voucher.

Procedure

- I. **Food Instrument Maximum Reimbursable Amount:** The vendor agrees that the maximum allowable reimbursement amount of any food instrument will not exceed three standard deviations of the average cost of any specific food item in accordance to the assigned peer group of the vendor. The State Agency cannot pay a vendor at a level that would otherwise make the vendor ineligible for authorization. (Public Law 108-265, Section 203(e), 17(h) (11) (B) and (C))

F.10. Check Redemption, Screening, and Rejection

Policy

Criteria for redemption period and screening by the bank for checks that are rejected

Procedure

- I. **Redemption period.** The date by which the vendor must submit the check for redemption and bank payment. This date must be no more than 60 days from the first date on which the check may be used. If the redemption date is fewer than 60 days, then the State agency must ensure that the allotted time provides the vendor sufficient time to submit the check for redemption without undue burden. (7 CFR 246.12 (f) (2) (iv))
- II. The check will be rejected if any of the following criteria is detected by the bank:
 - a. Missing an authorized signature
 - b. Missing the transaction date (date used)
 - c. Missing a vendor identification number stamp or using unauthorized vendor stamp/number or an unauthorized vendor.
 - d. Has any amount of handwriting as part of the vendor ID or date redeemed stamp.
 - e. Has a missing or altered numerical purchase price
 - f. Has a purchase price that exceeds the maximum estimated cost of the food instrument or the fixed cost on the cash-value voucher
 - g. Has an altered transaction date
 - h. Has altered food item quantities
 - i. Was redeemed prior the First Day To Use or greater than the Last Day to Use or submitted to the bank greater than sixty (60) days after the First Day To Use
 - j. Has been identified by a "S" stolen/lost prior to issuance by the local WIC agency
 - k. Has been identified as a stop payment by the State Agency
 - l. The amount requested is greater than three standard deviations above the average cost of the food items on the food instrument in accordance to the vendor's peer group.

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- III. The vendor shall not accept any WIC check in which the dates or the quantities/sizes of WIC prescribed foods or signatures have been altered.
- IV. The State Agency may adjust the total purchase price on checks submitted by the vendor for payment to ensure compliance with the price limitations applicable to that vendor.
- V. Checks missing the authorized signature, or the authorized signature is placed out of the signature box, or redeemed prior to the First Day to Use or greater than the Last Day to Use, or missing the total amount in the Pay Exactly box, or double stamped (two vendor ID numbers or two dates) will not be paid nor accepted for validation.
- VI. If the check was rejected because of a vendor identification stamp or date, the vendor may stamp the front and resubmit the check to the bank without submitting it to the State Agency for payment. No other exceptions are allowed.
- VII. For rejected checks redeemed in excess of the maximum reimbursement level, the vendor must submit a copy of the transaction receipt along with the check (or a legal copy of the check) to the Utah WIC program. A copy of the transaction receipt may include: a printed copy of the original transaction receipt (from the electronic file); a photocopy of the original receipt transaction; or other copied information from the original transaction that actually identifies what food items were purchased. Submitting just a list of the food items on the food instrument with prices does not identify what was actually purchased and cannot be accepted as appropriate documentation. The Utah WIC program CANNOT reimburse a WIC vendor for any part of a redemption for any unauthorized foods (including brand names where a store brand/private label is required), and/or an unidentifiable food item, and/or for a different food item, and/or for a different size of a food item than that was printed on the face of the food instrument or authorized for a cash-value voucher. If the vendor does not produce acceptable documentation of the actual items that were purchased, the State Agency will not reimburse the vendor.
- VIII. The vendor must submit the original or legal copy of the check(s) to the State Agency for evaluation of payment. When the vendor submits a check or electronic copies of checks for validation payment, the check MUST have the Vendor Identification/Date Redeemed Stamp imprinted on the front.
- IX. Submission of checks or inquiries of checks (or electronic copies of checks) received by the State Agency after sixty (60) days from the First Day to Use cannot be paid or validated.
- X. It is the State Agency's responsibility to resolve any check problem(s) and/or validate for payment any check for the prescribed WIC foods. The local agency must never try to handle validation of a rejected WIC check.

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- XI. The State Agency must take follow-up action within ninety (90) days of detecting any questionable checks, suspected vendor overcharges, and other errors and must implement procedures to reduce the number of errors when possible.
- XII. Unauthorized vendors attempting to redeem Utah WIC checks will not be paid.
- XIII. Only those WIC authorized food items in the quantities and sizes stated on the front of the check can be paid or validated.
- XIV. The vendor agrees not to amend, adjust, correct, blot out, or make any markings over or conceal any validations or adjustment documentation (written or stamped) made by the State Agency on the original WIC check or on any electronic copies of the WIC check. Reimbursements maybe requested and/or State Agency violation points or sanctions may be given if the vendor is found to have altered any State Agency validations, adjustments, or documentations.

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F.11. Vendor Complaints

Policy

Utilization of the Local Agency Vendor Complaint Form and Investigation of Complaints

Procedure

- I. The VISION system **Customer Service Log** in combination with an email from the local vendor coordinator should be used to inform the State WIC Agency of complaints, problems, or questions that participants or local agencies have regarding vendors. Any written statements or documentation regarding the complaint should be attached to the email and be included in the scanned documents on VISION. Complaints related to individual checks should include the check number(s) involved, date of issuance, name of participant, participant identification number, and depending on the problem, the other checks issued to the family for that month. Complaints concerning an individual cashier should include a name or a description of the cashier, date and time of incident, and details of the incident.
- II. The **Customer Service Log and complaint email/written documentation** must be documented appropriately so that the details of the incident can be used for specific investigative procedures, such as compliance purchases to verify program violations, and assign corrective actions or State Agency violation points and sanctions against the vendor. Complaints that are general and/or lacking detail cannot be properly investigated nor defended in the event of a Fair Hearing.
- III. The authorized WIC vendor must provide an investigation of any complaints against the retailer if requested by the State Agency. This investigation will include statements of employees and/or witnesses directly or indirectly involved the incident. The retailer will provide the State Agency upon request copies of these statements and details of the incident/investigation within thirty (30) days of the request

F.12. Food Price Reporting List

Policy

Utilization of the Food Price Reporting List

Procedure

- I. The **Utah Food Price Reporting List** is used to obtain food item prices directly from the vendor. Prices are obtained to create a price list for each vendor in order to verify/update the vendor peer group food price list which is the database for the food instrument total maximum allowable reimbursement calculations, and generate post-hoc comparison data.
- II. Prices for supplemental foods are submitted by the vendor on a quarterly basis. A Utah Food Price Reporting List is required for routine monitoring, periodic designated reviews or follow-up, initial evaluations, compliance purchases, and as requested by the State Agency.
- III. Prices for supplemental foods are either collected manually or can be input through an internet based data price collection system.

F.13. Reimbursement Levels and Claims Collection

Policy

Screening of food redemption and collection of claims against checks improperly redeemed

Procedure

- I. **Reimbursement Levels and Review of Food Instruments** – The bank receives the maximum estimated cost for all food instruments for all peer groups and will reject all food instruments greater than three standard deviations above the average cost for the food instrument in accordance to the vendor of redemption by peer group.
- II. **Vendor Overcharge** – Intentionally or unintentionally charging the State agency more for authorized WIC food items than is permitted under the vendor agreement.
 - a. **Claims for Overcharge** – All food instruments redeemed at three standard deviations above the average cost of the food instrument in accordance to the vendor of redemption by peer group or received by the State agency for validation will be screened for overcharge (greater than three standard deviations above the average cost of the food instrument in accordance to the vendor of redemption). If the disputed amount is greater than the maximum estimated cost, the total amount will be adjusted based on the vendor's last price survey or three standard deviations above the vendor's peer group average cost. If the vendor has been paid an amount above three standard deviations plus the average peer group cost, the State Agency will evaluate the transaction and mail a letter to the vendor requesting a reimbursement for the overcharge or a justification of the cause of the overcharge if appropriate. A copy of the food instrument that overcharged the WIC Program will be enclosed with the notification. If justification cannot be established, the vendor is asked to reimburse the Utah WIC Program the difference between the amount the food instrument was cashed for and the actual price of the supplemental foods provided.
- III. **Delay of Payment or Establishment of a Claim** - When the State agency determines the vendor has committed a vendor violation that affects the payment to the vendor, the State agency may delay payment or establish a claim in the amount of the full purchase price of each check that contained the vendor overcharge or other error.
- IV. **Opportunity to justify or correct** – When payment for a check is delayed or a claim established, the State agency must provide the vendor with an opportunity to justify or correct the vendor overcharge or other error. If satisfied with the justification

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or correction, the State agency must provide payment or adjust the proposed claim accordingly.

- V. **Timeframe and offset** - The State agency must deny payment or initiate claims collection action within ninety (90) days of either the date of detection of the vendor violation or the completion of the review or investigation giving rise to the claim, whichever is later. Claims collection action may include offset against current and subsequent amounts owed to the vendor.
- VI. **Checks redeemed after the specified time** – With justification and documentation, the State agency may pay vendors for checks submitted for redemption after the specified period for redemption. If the total amount submitted at one time exceeds \$500.00, the State agency must obtain the approval of the FNS Regional Office before payment.
- VII. The vendor must pay any claim assessed by the State agency. In collecting a claim, the State agency may offset the claim against current and subsequent amounts owed to the vendor. In addition to denying payment or assessing a claim, the State agency may impose State Agency violation points or sanctions on the vendor for vendor overcharges or other errors in accordance with the State Agency's Violation Points and Sanction schedule.

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F.14. Vendor Authorization

Policy

Vendor Authorization criteria;
Peer Group Definitions;
Determination of Vendor Peer Groups and
Notification of Peer Group Assignment

Procedure

- I. **Vendor Authorization** – Vendor authorization is the process by which the State Agency evaluates, selects, and enters into agreements with retailers that apply or subsequently reapply to be authorized as WIC vendors. (7 CFR 246.12(h))

In determining if a vendor is expected to meet the more than fifty percent (50%) criterion, the State Agency shall ask each vendor applicant whether it is expected that more than fifty percent (50%) of its monthly revenue from the sale of food items will be derived from redemption of WIC checks. If the answer is “no,” no further assessment is necessary. If the answer is “yes,” the State Agency shall conduct an assessment to determine whether the vendor applicant may be authorized. The State Agency shall assess the vendor using additional sale or inventory questions, on-site preauthorization visits, data sources, and other methodologies to make the determination. Failure of a vendor applicant to provide documentation or falsification of documentation requested by the State Agency shall result in denial of the application.

- a. If the State Agency determines that the vendor may be authorized, the on-site preauthorization visit (required in the WIC Program regulations at 7 CFR 246.12(g) (4)) shall be used to confirm that the new store is not expected to meet the more than fifty percent (50%) vendor criterion.
- b. The State Agency shall monitor all newly-authorized vendors to assure that they have been properly evaluated as a potential above-50% vendor. Such monitoring shall include a comparison of WIC and Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) redemption data and/or a review of WIC redemptions to total food sales with six (6) months from the date of authorization. At authorization, the State Agency shall notify vendors in writing of this assessment and the requirement to provide proper written documentation of their total food sales.
- c. The State Agency will terminate newly authorized vendors that are subsequently determined to have greater than 50% of their total food sales (including infant formula) in WIC redemption. The State Agency will terminate the agreement with a thirty (30) day notification if it determines that a vendor has greater than 50% of their total food (including infant formula) sales in WIC

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check redemption in any month or year during the agreement period. Vendors terminated for greater than 50% of their total food sales (including infant formula) in WIC redemption cannot reapply for authorization for ninety (90) days after the termination date.

- II. The State Agency will maintain an open enrollment period to accept applications throughout the agreement period with the exception of the last three (3) months of the agreement period. Vendor applications during this time period will only be processed if there is inadequate participant access to the program, including a case in which a previously authorized vendor sells a store under circumstances that do not permit timely notification to the State Agency of the change of ownership.
- III. **Vendor Peer Groups** (Public Law 108-265, Section 203(e), 17(h)(11)(A)): The vendor agrees that their place of business must be accessible to all WIC participants and the general public for transactions other than WIC, and will be classified as one of the following vendor peer groups based on program definitions. A vendor cannot qualify for more than one peer grouping and will be assigned the most compatible peer grouping based on the criteria outlined below as a result of the analysis of these criteria. To ensure that the vendor peer groups remain effective (7 CFR 246.12(g)(4)(ii)), the State Agency will assess its peer grouping methodology at least every three (3) years and make adjustments as necessary.
 - a. The State agency must inform all vendors of the criteria for peer groups, and must inform each individual vendor of its peer group assignment. The State agency must inform all vendors of the criteria for peer groups through direct correspondence and/or designated in their individual Utah WIC Vendor Agreements.
 - b. When classifying a vendor initially into a peer group, the criteria will include: 1) Square Footage; 2) number of Cash Registers; 3) Ownership Structure (Type Store Structure- Sole Proprietor/Partnership/Corporation; 4) Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) sales volume for stores on the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program); and 5) Geography (Remote Rural/Rural/Slightly Urban/Urban/Metro Market Edge/ Metro Market Center).
 - c. Peer group assignment for authorized vendors without initial sales data will be re-evaluated at six (6) months after the initial assignment but will now include: 1) Food sales (Supplemental Nutrition Assistance Program (Food Stamp Program) eligible foods including infant formula.
 - d. Peer grouping designation will be based on the analysis evaluation most consistent with the weighting of all assigned criteria.

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- e. Vendors in outlying zip code locations, which incur documented excessive shipping or fuel costs by the distributor or other objective means, are exempt from the other criteria and may be adjusted.
- f. All authorized vendors will receive peer group review on a yearly basis.
- g. Vendors found to have greater than fifty percent (50%) of their total food sales (including infant formula) for any month in WIC check redemption will be terminated with a thirty (30) day notification. Vendors terminated for greater than fifty percent (50%) of their total food sales (including infant formula) in WIC redemption cannot reapply for authorization for ninety (90) days from the termination date.

IV. Vendor Limiting & Selection Criteria

- a. **Vendor Limiting and Selection Criteria** – The Utah WIC Program will authorize an adequate number of vendors in order to provide access to acquire WIC food items and provide a vendor population that is cost-effective and can be efficiently managed by the State and local WIC agencies. Any vendor that is rejected cannot reapply for application of Limiting or Selection Criteria for thirty (30) days. Application documentation and records are valid for thirty (30) days from the on-site preauthorization visit.
- b. **Vendor Limiting Criteria** – Vendor limiting criteria is established by the State agency to determine the maximum number and distribution of vendors it authorizes pursuant to 7 CFR 246.12(g) (2) of the Federal Register.
 - i. When a vendor requests application for participation, the State Agency will examine the following Vendor Limiting Criteria to determine if the vendor is needed for the clinic service area prior to authorization:
 - ii. **Participant/vendor zip code ratio limitation:** No vendor shall be accepted nor have their agreement renewed on the Utah WIC Program if the participant/vendor ratio is less than 200:1 for matching participant/vendor zip codes in Cache, Weber, Davis, Salt Lake and Utah Counties or less than 50:1 for matching participant/vendor zip codes in the remaining counties or for out of state vendors which are needed for participant access.
 - iii. **Competitive price and price limitations:** The price of each WIC eligible food item does not exceed three standard deviations (3 SD) of the average cost of the same WIC eligible food in other WIC authorized vendors in the same peer group. Only the required number of vendors needed to maintain the minimum participant/vendor ratio, will be accepted for authorization or allowed to renew the vendor agreement. (Public Law 108-265, Section 203(e), 17(h) (11) (B) and (C))

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- (1) Additional vendors beyond the minimum participant/ vendor ratio may be accepted or allowed to renew, if their prices on WIC food items are within three standard deviations of the average cost of peer group one or two stores within the zip code location.
- iv. ***Determination of Vendors with greater than 50% Redemption of their total food sales or receipts in WIC dollars:*** 1) The vendor applicant cannot be dependent upon WIC authorization before the store can open; 2) The vendor applicant cannot expect to accept WIC checks as the primary form of payment for the sale of food items; 3) The vendor has designated at a minimum, greater than fifty percent (50%) of the shelf space to the sale of non-WIC foods.
- v. ***Limiting Criteria Exceptions:*** Exceptions to the zip code participant/vendor ratio are: 1) Military Commissaries or 2) if there is not active WIC vendor within twenty (20) miles.
- vi. Additional vendors beyond the minimum participant/vendor ratio may be accepted or allowed to renew, if their prices on WIC food items are within three standard deviations (3 SD) of the lowest priced vendors in the zip code location.
- c. **Vendor Selection Criteria** – Vendor selection criteria means the criteria established by the State agency to select individual vendors for authorization consistent with the requirements in 7 CFR 246.12(g) (3) of the Federal Register.
 - i. Having completed the Vendor Limiting Criteria, the vendor is now in a position to be evaluated for selection to the Utah WIC Program. The vendor agrees to an on-site preauthorization evaluation and training by an authorized Utah WIC retail coordinator.
 - ii. The State agency will assign the on-site-pre-authorization visit to a local agency retail coordinator who has the responsibility for the evaluation and training. The authorized Utah WIC retail coordinator has up to thirty (30) calendar days from the vendor request for an on-site pre-authorization evaluation, after the limiting criteria have been applied, to conduct the actual on-site visit. The State agency has up to twenty (20) calendar days from the date the completed on-site pre-authorization evaluation is received at the State Agency until a notification letter is sent regarding authorization or rejection.
 - iii. The vendor agrees to meet or exceed the minimum Selection Criteria in order to be accepted as a Utah authorized WIC vendor.

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- iv. **Competitive price and price limitations:** The price of each WIC eligible food item does not exceed three standard deviations (3 SD) of the average cost of the same WIC eligible food in other WIC authorized vendors in the same peer group. (See limiting criteria) (Public Law 108-265, Section 203(e), 17(h) (11) (B) and (C).
- v. **Minimum variety, quantity, and quality of supplemental foods:** Vendor has on the shelf and in stock the minimum variety and quantity of WIC eligible food items with prices plainly marked on the product or shelf according to the assigned vendor peer group. Vendor has WIC items on the shelf that are not dented, previously opened, markings or stamp of a another store name, out of date items, altered case lot numbers or expiration dates, altered or marked through UPC codes, or items sold as damaged goods. (7 CFR 246.12(g) (3) (i))
- vi. **Business Integrity:** Unless denying authorization of a vendor applicant would result in inadequate participant access, the State Agency may not authorize a vendor applicant if during the last six years the vendor applicant or any of the vendor applicant's current owners, officers, or managers have been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity. The State Agency may not authorize a vendor or additional stores by the same owner that was disqualified from the Supplemental Nutrition Assistance Program/Food Stamp Program or that has been assessed a Supplemental Nutrition Assistance Program/Food Stamp Program civil money penalty for hardship and the disqualification period that otherwise have been imposed has not expired. Activities indicating a lack of business integrity include fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice. The State Agency may add other types of convictions or civil judgments to this list. (7 CFR 246.12(g) (3) (ii))
- vii. **Current Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) disqualification or civil money penalty for hardship:** Unless denying authorization of a vendor applicant would result in inadequate participant access, the State Agency may not authorize a vendor disqualified from the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) or that has been assessed a Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) civil money penalty for hardship and the disqualification period that otherwise have been imposed has not expired. (7 CFR 246.12(g) (3) (iii))
- viii. **Sale of a store to circumvent a WIC Sanction:** The State Agency may not authorize a vendor applicant if the State Agency determines the store/business has been sold to circumvent a WIC sanction. These criteria

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will include: 1) opening a different store under a new name to circumvent a sanction; 2) selling the store to a relative by blood or marriage to circumvent a sanction; or 3) selling the store to an individual or organization for less than the fair market value to circumvent a sanction. (7 CFR 246.12(g)(6))

- ix. ***Current WIC disqualification and sanctions:*** The State Agency may not authorize a vendor applicant if the State Agency determines if: 1) any vendor has been disqualified from Utah or any other State Agency/ITO WIC Program for two (2) or more years as a result of a disqualification activity by the vendor, one of its current employees whose duties include handling WIC checks, or owners, officers, directors, or partners; 2) any vendor who has requested a termination from the Utah WIC Program with an outstanding reimbursement for overcharge or Program administrative cost; 3) any vendor has failed to take requested action by the Utah WIC Program within thirty (30) days after notification by certified letter, or failure to provide requested data or records, or failure to allow monitoring of the vendor, or failure to attend or complete required training sessions.
- x. ***Hours of operation, store cleanliness:*** The time frame of business operation and hours are appropriate for participant access: The vendor provide food sales on a year-round basis (excluding holidays or Sundays); be open a minimum of 8 hours of operation per day; 3 hours must be A.M.; five (5) days a week; except for military commissaries. During the WIC pre-authorization site visit, the vendor will be examined for the following: floors clean and in good repair, swept, and free from dirt, filth and/or excess rubbish; no evidence of insects and/or rodents within the store premises; garbage or refuse within the store premises are covered; no evidence of thawing and then refreezing of foods (cans of frozen juice stuck together); foods properly stored and/or refrigerated; freezer and cooler temperatures meet minimum requirements; and no evidence of food spoilage or out dated products.
- xi. ***Amount of WIC Food Transactions:*** All vendors must have, as a minimum, at least fifty percent (50%) of their shelf space designated to the sale of non-WIC food items and non-WIC food transactions must be at least fifty percent (50%) of total food sales (including infant formula). The State Agency may request invoices to substantiate the foods that have been purchased for sale. (WIC Reauthorization Act of 2004, Public Law 108-265, Sections 203(e) (10) and 203(e) (13).
- xii. ***Determination of Vendors with greater than 50% Redemption of their total food sales or receipts in WIC dollars:*** 1) The vendor applicant cannot currently own one or more WIC authorized stores (including states outside of Utah) where WIC food sales (including infant formula) are more than fifty percent (50%) of total annual food sales (including infant formula); 2) The

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vendor applicant currently offers for sale primarily WIC authorized food items (i.e. does not offer a variety of foods in the staple food groups – see Selection Criteria).

- xiii. **Purchase of Infant Formula:** Vendors authorized to participate in the WIC Program shall only purchase infant formula from wholesalers, distributors, and retailers licensed and/or registered with the State Tax Commission as a business in the State and in accordance with State law and infant formula manufacturers registered with the Food and Drug Administration that provide infant formula.
- xiv. **Full Service Vendor:** The vendor must provide food sales on a year-round basis (excluding holidays or Sundays); the vendor must stock and provide a variety of foods in each of the following staple food groups on a continual basis: ten pounds of meat, ten pounds of poultry or fish; bread or cereal; fresh vegetables and fruits, dairy (milk, eggs, and cheese), and baby foods (fruits/vegetables and meats). The State WIC Agency may request the percentage of foods to be offered for sale in each category detailed above. (i.e.: dairy 30%; bread or cereal 25%, etc.)
- xv. **Fixed Location:** The vendor must operate and transact checks at a fixed, retail location.
- xvi. **Exceptions to Selection Criteria:** Exceptions to selection criteria may be made if there are no other WIC vendors within twenty (20) miles.

V. Procedures for Pre-authorization On-Site Visit (7 CFR 246.12(g) (4))

- a. After receiving the letter regarding acceptance of the Limiting Criteria, the vendor will be instructed to contact the local WIC agency retail coordinator to schedule the on-site pre-authorization visit along with a copy of the acceptance letter, the clinic will receive the WIC Vendor Training Packet which contains all the documentation forms that need to be completed and information to leave with the vendor. (7 CFR 246.12(g)(8))
- b. The State Agency/local agency vendor relations' representative has thirty (30) days from the initial contact by the vendor to conduct the on-site pre-authorization evaluation and training.
- c. The Local Agency visits the store taking along a WIC Vendor Training Packet.
- d. The State Agency/local Agency completes the **Initial Evaluation Form, Vendor Inventory Requirement Verification Form, Attendance Record for Vendor Training**, and **Checklist for Initial Vendor Training** in the training kit. Training

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is conducted utilizing the **Checklist for Initial Vendor Training** (as a training outline).

- e. The WIC retail coordinator in examining for store cleanliness is not providing an environmental health inspection, rather only documenting any observations as defined in Selection Criteria while evaluating for appropriate inventory requirements and documenting prices. Any findings should be forwarded to the local environmental health, licensing, or applicable agency for follow-up.
- f. The Local Retail Coordinator mails or emails all completed forms to the State Agency and the vendor retains the remainder of the training kit.
- g. The State Agency determines if the vendor qualifies.
 - i. There may be up to a twenty (20) calendar day processing period from the date of the evaluation visit is received by the State Agency until the notification of authorization or rejection.
 - ii. Timeframe on application documentation: Application documentation is valid thirty (30) days from the date the agreement was signed.
 - iii. If the local agency/clinic determines that a WIC vendor is no longer in business, either by contact with the vendor or participant information, the local agency/clinic will notify the State WIC office in writing of the closure

VI. **Redemption of Checks Prior to Authorization**

- a. Any vendor who attempts to redeem Utah WIC prior to receiving the authorization letter and the Utah WIC authorized vendor identification/date stamp will be subject to rejection of the checks and loss of payment plus an additional thirty (30) day waiting period before authorization.

VII. **If the Vendor is Authorized**

- a. The State Agency issues a vendor number, assigns a vendor peer group, and mails the Utah WIC authorized vendor identification number stamp, an approval letter with the peer group assignment and a copy of the WIC Vendor Agreement directly to the approved WIC vendor. A copy of the approval letter and agreement is sent to the local agency.
- b. The local agency retail coordinator will keep a paper or electronic file for vendors that have been authorized in their clinic service area. This file will contain the following documentation: 1) a Vendor Log which will be utilized to document all contacts with the vendor that are not documented on any other form; 2) a copy of the current Vendor Agreement; 3) a copy of any written complaints; 4) a copy of

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Monitoring Instruments, and 5) any additional correspondence sent to the vendor by the State or local agency.

VIII. If the Vendor is Not Authorized:

- a. The State Agency mails a disapproval letter via certified mail stating the reasons for disapproval to the vendor.
- b. State Agency informs Local Agency of the vendor's failure to be authorized by sending a copy of the disapproval letter.
- c. State Agency retains a copy of the disapproval letter, and all evaluation documentation in a file marked **Vendor Applications Rejected**.
- d. The disapproved vendor cannot reapply for another evaluation for at least thirty (30) days from the date of the disapproval.

IX. Evaluation of Currently Authorized Vendors

- a. The vendor must have redemption activity within a ninety (90) day period to continue on the WIC Program unless the vendor is needed for participant access. To determine whether a currently authorized vendor meets the above-50-percent criterion, the State agency must calculate WIC redemptions as a percentage of the vendor's total foods sales revenue. WIC redemption data used in the State agency's calculations will cover the same period covered by the vendor's food sales amount.
- b. Identifying Potential Above-50-Percent Vendors from WIC and Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) Redemptions
 - i. The State agency will compare all vendors' WIC redemptions to their vendor's Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) redemptions for the same period. The State agency will utilize acquired data from the State agency's data base compared with STARS and the assessment tool based on the TIP report data provided to the State agency through the previous fiscal years data. If a vendor's Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) redemptions exceed its WIC redemptions, **no further assessment is required**. The vendor would be deemed a regular vendor. Collection of an annual food sales amount for the vendor would not be necessary.
 - ii. If the WIC redemptions exceed the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) redemptions, then the State Agency will require Supplemental Nutrition Assistance Program

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(SNAP/Food Stamp Program)-eligible food redemption data documentation from the vendor.

- c. The State Agency will calculate the ratio of WIC redemptions to the total annual food sales and designate the vendor as an above-50-percent vendor or a regular vendor. The food sales amount is an amount that is supported by written sales or financial statements, reports, tax forms, or other records sufficient for establishing Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program)-eligible food sales.
- d. The State Agency will assess vendors every six (6) months to ensure the vendor is assigned to the correct peer grouping. State Agency shall monitor all newly authorized vendors to assure that they have been properly designated as being or not being above-50-percent vendors. Such monitoring shall include a comparison of WIC and Supplemental Nutrition/Food Stamp Program redemption data and/or a review of WIC redemptions to total food sales with six (6) months from the date of authorization. At authorization, the State Agency shall notify vendors in writing of this assessment and the requirement to provide proper written documentation of their total food sales.
- e. The State Agency may update or revise a vendor's designation at any time. The State Agency must assess vendors annually.
- f. If a vendor was authorized by more than one State agency during the period under consideration, then the State Agency must obtain the amount of WIC redemption the vendor received from every other State Agency that authorized the vendor and sum of all of the WIC redemptions to calculate the ratio of WIC redemptions to total annual sales.
- g. The State Agency will terminate the agreement with a thirty (30) day notification if the vendor fails to provide appropriate documentation of Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program)-eligible food sales or State Agency determines that a vendor has greater than fifty percent (50%) of their total food sales (including infant formula) in WIC check redemption in any month or year during the agreement period.
- h. A currently authorized vendor that is disqualified because of a failure to submit documentation of food sales to determine above-50% sales will not be able to reapply for thirty (30) days.

X. Renewal of the Vendor Agreement (Reauthorization)

- a. At the end of the agreement period as assigned by the State Agency, the vendor is requested to apply for renewal of the agreement. The vendor agrees to read and sign the new agreement, complete all applicable required information, and

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return the renewal forms and agreement to the Utah WIC Program by the designated time frames. Renewal of the agreement will be based upon both the **Vendor Limiting Criteria** and **Vendor Selection Criteria**.

- b. Expiration of a contract or agreement with a food vendor is not subject to appeal.
- c. Neither the State Agency, nor the food vendor has an obligation to renew the contract or agreement.

XI. Notification of Program Changes

- a. The State Agency must notify vendors of changes to Federal or State statutes, regulations, policies and /or procedures governing the Program before changes are implemented. The State Agency will give a minimum notice of thirty (30) days before any changes are implemented (7 CFR 246.12(h) (7)).

XII. Conflict of Interest

- a. The State agency will terminate a vendor agreement if the State Agency determines that a conflict of interest exists between the vendor and the WIC Program, at either the State or Local level. The State agency must ensure that no conflict of interest exists, as defined by applicable State laws, regulations, and policies, between the State agency and any vendor or home food delivery contractor under its jurisdiction. (7 CFR 246.12(t))

F.15. Food Inventory Requirements

Policy

Description of the required food inventory requirements by vendor peer group

Procedure

During monitoring of the vendor, the required food inventory requirements will be evaluated and corrective action taken or non-authorization may result if appropriate

I. Food Inventory Requirements

- a. The vendor agrees to have on the shelf for purchase a reasonable choice of authorized WIC foods as listed under the peer group of vendor.
- b. **Peer groups 1 and 2** – WIC stores agree to have on the shelf and stock the following minimum varieties and quantities of WIC food items:
 - i. **Infant formula: Similac Advance (Abbott Nutrition) and Similac Soy Isomil (Abbott Nutrition);** Quantity on shelf—twelve (12) cans of powder of each brand on the shelf; and thirteen (13) cans of concentrate of each brand on the shelf. Quantity in inventory: a minimum of two (2) cases of Similac Advance powder; one (1) case of Similac Advance concentrate; one (1) cases of Similac Soy Isomil powder and (1) case of Similac Soy Isomil concentrate—the vendor agrees to acquire sufficient quantities of Similac Advance and Similac Soy Isomil infant formula, or other infant formulas that can be obtained through grocery wholesalers above the minimum inventory requirements, in order to redeem WIC checks being presented at the vendor site within 72 hours of notification of the need. The vendor agrees to acquire other brands of infant formula, when required to redeem WIC checks, without causing participant inconvenience or hardship.
 - ii. Infant cereal, stock at least two (2) different varieties (i.e. Rice and Oatmeal) without fruit in 8-oz. size; quantity in stock—eight (8) 8-oz. containers.
 - iii. Whole, 2%, 1%, or skim milk in gallons, half-gallons, and quart sizes; quantity in stock—ten (10) gallons, six (6) half-gallons, and six (6) quarts.
 - iv. Evaporated milk, stock at least one (1) variety in 12-oz. cans; quantity in stock—ten (10) cans.
 - v. Authorized cheese, stock at least two (2) different varieties in 1 lb. packages (packages less than 1 lb. can combine to total 1 lb.); quantity in stock—ten (10) packages of varying sizes of authorized varieties. No sliced cheese, cheese foods, deli items, cheese products or spreads.

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- vi. Authorized WIC cereals, stock at least six (6) different authorized varieties; quantity in stock—four (4) containers of each variety. At least three (3) of the authorized varieties must be whole grain cereals.
- vii. Authorized WIC juice, stock at least two (2) different varieties of 12-oz. frozen juice; quantity in stock—six (6) cans of each variety and size. At least two (2) different authorized varieties of 64-oz full strength juice; quantity in stock—eight (8) cans of each variety and size.
- viii. Eggs, authorized size; one (1) dozen; quantity in stock—ten (10) dozen.
- ix. Authorized peanut butter, stock at least two (2) different varieties in 18-oz. size; quantity in stock—eight (8) jars of each variety.
- x. Authorized dried peas/beans/lentils in 16-oz packages; stock at least four (4) different varieties; quantity in stock—four (4) packages of each variety.
- xi. Authorized canned Fish, stock at least two (2) different authorized varieties (light tuna and salmon) in 5-oz containers; quantity in stock – ten (10) cans of each variety.
- xii. Stock at least six (6) different varieties of authorized fresh fruits and four (4) different varieties of authorized fresh vegetables; quantity in stock for each variety: twelve (12) authorized fruit and vegetable commodities per variety.
- xiii. Stock at least three (3) different varieties of authorized 4-oz jars of infant single variety fruits and single variety vegetables; total quantity in stock for all varieties maintained by the store: 40 – 4-oz jars in any combination (includes shelf stock and storage inventory).
- xiv. Stock at least three (3) different single varieties of authorized 2.5-oz jars infant meats; total quantity in stock for all varieties maintained by the store: 20 – 2.5-oz jars (including shelf stock and storage inventory).
- xv. Stock at least one (1) variety of authorized 16-oz size of whole wheat bread; quantity in stock: eight (8) loafs. Stock at least one (1) variety of authorized 24-oz whole wheat bread, quantity in stock: four (4) loafs.
- xvi. Stock at least two (2) different varieties of 15 to 16-oz authorized canned beans/peas/lentils; quantity in stock: eight (8) cans per variety
- xvii. Stock at least one (1) variety of 14 to 16-oz authorized brown rice (instant, regular, or bagged); one (1) variety of 14 to 16-oz authorized soft corn or whole wheat tortillas; quantity in stock: eight (8) food commodities per variety.

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- c. **Peer groups 3 and 4** – Stores agree to have on the shelf and stock the following minimum varieties and quantities of WIC food items:
- i. **Infant formula: Similac Advance (Abbott Nutrition) and Similac Soy Isomil (Abbott Nutrition);** Quantity on shelf—twelve (12) cans of powder of each brand on the shelf; and thirteen (13) cans of concentrate of each brand on the shelf. Quantity in inventory: a minimum of one (1) case of Similac Advance powder; one (1) case of Similac Advance concentrate;—the vendor agrees to acquire sufficient quantities of Similac Advance and Similac Soy Isomil infant formula, or other infant formulas that can be obtained through grocery wholesalers above the minimum inventory requirements, in order to redeem WIC checks being presented at the vendor site within 72 hours of notification of the need. The vendor agrees to acquire other brands of infant formula, when required to redeem WIC checks, without causing participant inconvenience or hardship.
 - ii. Infant cereal, stock at least two (2) different varieties (i.e. Rice and Oatmeal) without fruit in 8-oz. size; quantity in stock—six (6) 8-oz. containers.
 - iii. Whole, 2%, 1%, or skim milk in gallons, half-gallons, and quart sizes; quantity in stock—four (4) gallons, four (4) half-gallons, and four (4) quarts.
 - iv. Evaporated milk, stock at least one (1) variety in 12-oz. cans; quantity in stock—five (5) cans.
 - v. Authorized cheese, stock at least two (2) different varieties in 1 lb. packages (packages less than 1 lb. can combine to total 1 lb.); quantity in stock—five (5) packages of varying sizes of authorized varieties. No sliced cheese, cheese foods, deli items, cheese products or spreads.
 - vi. Authorized WIC cereals, stock at least four (4) different authorized varieties; quantity in stock—four (4) containers of each variety. At least two (2) of the authorized varieties must be whole grain cereals
 - vii. Authorized WIC Juice, stock at least two (2) different varieties of 12-oz. frozen juice; quantity in stock—six (6) cans of each variety and size. At least two (2) authorized varieties of 64-oz full strength juice; quantity in stock—six (6) cans of each variety and size.
 - viii. Eggs, authorized size; one (1) dozen; quantity in stock—six (6) dozen.
 - ix. Authorized peanut butter, stock at least two (2) different varieties in 18-oz. size; quantity in stock—four (4) jars.

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- x. Authorized dried peas/beans/lentils, authorized size in 16-oz packages; stock at least three (3) different varieties; quantity in stock—three (3) packages of each variety.
 - xi. Authorized canned fish, stock at least two (2) different authorized varieties (light tuna and salmon) in 5-oz containers; quantity in stock – six (6) cans for each variety.
 - xii. Stock at least four (4) different varieties of authorized fresh fruits and two (2) varieties of authorized fresh vegetables; quantity in stock for each variety: eight (8) authorized fruit and vegetable commodities per variety.
 - xiii. Stock at least two (2) different varieties of authorized 4-oz jars of infant single variety fruits and single variety vegetables; total quantity in stock for all varieties maintained by the store: 30 - 4 oz jars in any combination (includes shelf stock and storage inventory).
 - xiv. Stock at least two (2) different single varieties of authorized 2.5-oz jars infant meats; total quantity in stock for all varieties maintained by the store: 15 – 2.5-oz jars (including shelf stock and storage inventory).
 - xv. Stock at least one (1) variety of authorized 16-oz size of whole wheat bread; quantity in stock: six (6) loafs. Stock at least one (1) variety of authorized 24-oz whole wheat bread, quantity in stock: two (2) loafs.
 - xvi. Stock at least two (2) different varieties of 15 to 16-oz authorized canned beans/peas/lentils, quantity in stock: six (6) cans per variety.
 - xvii. Stock at least one (1) variety of 14 to 16-oz authorized brown rice (instant, regular, or bagged); one (1) variety of 14 to 16-oz authorized soft corn or whole wheat tortillas; quantity in stock: six (6) food commodities per variety.
- d. **Peer group 5** – Stores agree to have on the shelf and stock the following minimum varieties and quantities of WIC food items:
- i. **Infant formula: Similac Advance (Abbott Nutrition) and Similac Soy Isomil (Abbott Nutrition);** Quantity on shelf—six (6) cans of powder of Similac Advance on the shelf. The vendor agrees to acquire sufficient quantities of Similac Advance and Similac Soy Isomil infant formula, or other infant formulas that can be obtained through grocery wholesalers above the minimum inventory requirements, in order to redeem WIC checks being presented at the vendor site within 72 hours of notification of the need. The

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vendor agrees to acquire other brands of infant formula, when required to redeem WIC checks, without causing participant inconvenience or hardship.

- ii. Infant cereal, stock at least two (2) different varieties (i.e. Rice and Oatmeal) without fruit in 8-oz. size; quantity in stock—four (4) 8-oz. containers.
- iii. Whole, 2%, 1%, or skim milk in gallons, half-gallons, and quart sizes; quantity in stock—two (2) gallons, two (2) half-gallons, and two (2) quarts.
- iv. Evaporated milk, stock at least one (1) variety in 12-oz. cans; quantity in stock—two (2) cans.
- v. Authorized cheese, stock at least two (2) different varieties in 1 lb. package (packages less than 1 lb. can combine to total 1 lb.); quantity in stock—two (2) packages of varying sizes of authorized varieties. No sliced cheese, cheese foods, deli items, cheese products or spreads.
- vi. Authorized WIC cereals, stock at least two (2) different authorized varieties; quantity in stock—two (2) containers of each variety. At least one (2) of the authorized varieties must be whole grain cereals.
- vii. Authorized WIC juice, stock at least two (2) different varieties of 12-oz. frozen juice; quantity in stock—four (4) cans of each variety and size. At least two (2) different authorized varieties of 64-oz full strength juice; quantity in stock—four (4) cans of each variety and size.
- viii. Eggs, authorized size; one (1) dozen; quantity in stock—two (2) dozen.
- ix. Authorized peanut butter, stock at least two (2) different varieties in 18-oz. size; quantity in stock—two (2) jars.
- x. Authorized dried peas/beans/lentils, in 16-oz packages; stock at least two (2) different varieties; quantity in stock—two (2) packages of each variety.
- xi. Authorized canned fish, stock at least two (2) different varieties (light tuna and salmon) in 5-oz containers; quantity in stock – four (4) cans of each variety.
- xii. Stock at least two (2) different varieties of authorized fresh fruits and two (2) varieties of authorized fresh vegetables; quantity in stock for each variety: four (4) authorized fruit and vegetable commodities per variety.
- xiii. Stock at least two (2) different varieties of authorized 4-oz jars of infant single variety fruits and single variety vegetables; total quantity in stock for all varieties maintained by the store: 20 - 4 oz jars in any combination (includes shelf stock and storage inventory).

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- xiv. Stock at least two (2) different single varieties of authorized 2.5-oz jars infant meats; total quantity in stock for all varieties maintained by the store: 10 – 2.5-oz jars (including shelf stock and storage inventory).
- xv. Stock at least one (1) variety of authorized 16-oz size of whole wheat bread; quantity in stock: four (4) loafs. Stock at least one (1) variety of authorized 24-oz whole wheat bread, quantity in stock: two (2) loafs.
- xvi. Stock at least two (2) different varieties of 15 to 16-oz authorized canned beans/peas/lentils, quantity in stock: four (4) cans per variety.
- xvii. Stock at least one (1) variety of 14 to 16-oz authorized brown rice (instant, regular, or bagged); one (1) variety of 14 to 16-oz authorized soft corn or whole wheat tortillas; quantity in stock: four (4) food commodities per variety.

F.16. WIC Vendor Identification/Date of Transaction Stamp

Policy

Utilization of the Utah WIC Identification/Date of Transaction Stamp System

Procedure

- I. The purpose of the **WIC Vendor Identification/Date of Transaction Stamp System** is to reconcile the redemption of a WIC check to a specific WIC vendor, determine the date of transaction, analyze redemption patterns, and eliminate the loss of WIC food dollars to unauthorized or abusive vendors.
- II. The Vendor System involves the placement of the Utah WIC Identification number and the date of transaction combined stamp by the authorized vendor on the check in the space provided for "PAY TO WIC VENDOR (STAMP)" and "DATE USED (STAMP)". The placement of the vendor identification number and transaction date on the check will validate the check so that the vendor may receive payment for the WIC foods that were purchased. Without the stamp imprint of both the WIC identification number and the date of transaction, the check will be invalid and returned to the vendor unpaid.
- III. Issuance and Return
 - a. The State Agency will issue one (1) combined WIC Identification number and date used stamp to all vendors upon initial authorization without cost.
 - b. When a vendor agreement becomes null and void through closure of a store, change of ownership, or termination of an agreement (by either the vendor or State Agency), the vendor is required to surrender all the stamps issued to the State Office by mail or in person within ten (10) days.
 - c. Additional stamps can be purchased from the State WIC Agency.
- IV. Check Screening
 - a. The bank will screen all WIC checks for the Utah authorized vendor stamp and date used. All WIC checks that have not been imprinted with the authorized WIC identification number, date used, handwritten vendor number or date, or imprinted with an unauthorized, lost or stolen stamp will be rejected by the bank and returned to the vendor unpaid.
- V. **Vendor Responsibilities and Check Validation**

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- a. The vendor agrees to place the authorized WIC Vendor Identification/date stamp in the designated box on the check prior to deposit and when resubmitting checks for validation payment or adjustment.
- b. The placement of the Utah authorized WIC vendor identification and date used stamp(s) upon the WIC check will validate the check for cashing by the vendor at the bank
- c. Validation of the checks is accomplished by the vendor any time prior to depositing the check for payment
- d. Checks validated improperly by an unauthorized vendor (including terminated or inactive stores) will be the vendor's liability.

VI. **Lost or Stolen Stamps**

- a. The vendor is responsible to contact the State WIC Office within two (2) working days upon discovery of the authorized stamp(s) being lost or stolen.
- b. If the vendor has acquired any additional stamps with the same identification number, the stamps will need to be surrendered to the State WIC office within ten (10) days.
- c. The State Agency will issue a new stamp with a different identification number to those vendors who have reported the loss.

VII. **Vendor Stamp Violations**

- a. Failure to report a lost or stolen stamp is an act of non-compliance and duplication or using an unauthorized, lost, or stolen stamp is a violation of the vendor agreement and can result in State Agency violation points or sanctions.
- b. Any vendor who commits fraud or abuse of the program is liable to prosecution under applicable Federal, State or Local laws.

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F.17. Procedure at the Time of Transaction

Policy

Procedures regarding check transaction at the vendor.

Procedure

I. Food Issuance

- a. Authorized competent professional authorities at the WIC clinic designate which WIC foods and the quantities of those foods the WIC participant(s) are allowed to receive. When the check is presented for transaction, the clerk must verify the purchased items against those foods prescribed on the check. No substitutions are allowable except when accompanied by a 'Special Food Letter'.

II. Computer Issued Checks

- a. Utah WIC checks are issued by each local WIC clinic who serves WIC clients.
- b. The check tells WIC clients what foods they can purchase. *Remember the WIC client does NOT have to purchase all of the foods listed on the check.* The cash-value vouchers are for a fixed amount as stated on the front of the voucher. The participant CANNOT pay the difference above the maximum amount stated on the cash-value voucher if the total cost of the fruit and vegetables that were selected for purchase on WIC exceeds the fixed allowable amount on the cash-value voucher.

III. WIC Redemption Procedure at the Time of Transaction:

- a. **ASK TO SEE THE UTAH WIC ID PACKET**
 - i. DO NOT ACCEPT any WIC check without a Utah WIC ID Packet
 - ii. The cashier CANNOT ask to see any other form of identification, such as a Driver's License, to redeem WIC checks. If the client did not bring the WIC ID Packet, then the cashier must politely refuse the transaction.
 - iii. An original WIC ID Packet must be used for the signature verification process. No photocopies can be accepted.
- b. **EXAMINE "FIRST DAY TO USE" AND THE "LAST DAY TO USE" DATE BOXES**
 - i. The WIC check is valid from the "First Day to Use" through the "Last Day to Use." *DO NOT* accept any WIC checks prior to the "First Day to Use" or later

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than the "Last Day to Use." *Remember that the time frame between the dates may not always be thirty (30) days.*

c. **VERIFY THE SELECTED ITEMS**

- i. Using the food instrument like a checklist, ring up **ONLY** those prescribed foods on the food instrument in the quantities selected. (*NO* sales tax can be charged on Utah WIC food items). Refer to the Authorized Food Card for additional WIC food information. *DO NOT COMBINE* WIC items from another WIC check. The vendor can only charge the Utah WIC Program for the food items specified in the sizes and quantities on the face of the check. *DO NOT* redeem a WIC check that has a food item, size or quantity altered.
- ii. **If the store does not have all the food items listed on the check**, the vendor should **NOT** accept the WIC check. When a WIC participant presents a WIC check that exceeds the current vendor inventory, no transaction of that WIC check in whole or in part should take place. The vendor cannot accept the check and should instruct the participant to return when enough quantities of that item(s) are available to complete the *entire* transaction of the check. *NO "rain checks"* are allowed with WIC checks.

d. **CASHIER WRITES IN THE TOTAL AMOUNT FOR THAT CHECK IN THE "PAY EXACTLY" BOX**

- ii. The cashier, after totaling all the WIC items on *one specific check*, writes in the numerical total in the "Pay Exactly" box. *DO NOT* place a "\$" or a "¢" sign in front of or in back of the numerical value.

e. **WITNESS THE AUTHORIZED SIGNATURE**

- i. Witness the participant's or proxy's **AUTHORIZED** signature on the WIC check, comparing it to any of the signatures on the WIC Voucher/Identification Card Packet. The signature on the check must match one of the authorized signatures on the WIC ID Packet. *DO NOT* accept any WIC check where the signatures do not match or the WIC participant has failed to provide an authorized signature. *DO NOT* accept any check with a signature that resembles or is a facsimile of an "x" "+" or "t". These checks will not be paid.

f. **VENDOR IDENTIFICATION NUMBER AND DATE OF TRANSACTION) STAMP**

- i. The cashier should not handwrite the vendor stamp number and date of transaction.

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- ii. The retailer will place the combined vendor identification number and date of transaction stamp on the front of the check before submitting the check to the bank for processing. Align the WIC identification number with the line marked *"PAY TO THE ORDER OF"*. *DO NOT* redeem a Utah WIC check if a vendor stamp imprint or transaction date already appears on the *"PAY TO THE ORDER OF"* or *"DATE USED AT STORE LINE"* line.
- iii. The placement of the Utah WIC authorized identification number and date of transaction on the check will validate the check for redemption by the vendor. Remember to stamp the check prior to sending it to the bank. The bank will screen for the vendor identification number/transaction date, if no identification number or transaction date is found, or if an unauthorized, lost or stolen stamp is used, the bank will reject the check, and return it to the vendor unpaid.
- iv. If the vendor identification number or transaction date is blurred in *any way*, or imprinted several times, or over any other writing *that would make the numbers or date difficult to read*, the check will not be accepted by the bank.
- v. Ensure the imprint of the identification number and the date of transaction are within the appropriate boxes. THE STAMP IMPRINTS CANNOT TOUCH ANY LINES; THE IMPRINT MUST BE WITHIN THE BOXES.
 - (a) The date of transaction stamped on the front of the check cannot be altered in any way and must match the actual date of transaction printed or endorsed on the back of the check or determined by any other objective means.
 - (b) The vendor may use separate stamps for the vendor identification number and the transaction date, however, any stamp used must be obtained through the Utah WIC State Agency to ensure the imprint can be optically scanned.
 - (c) Unauthorized duplication or using an unauthorized identification or date stamp, unauthorized number, lost, or stolen stamp, (including failure to surrender any stamps) is an act of noncompliance and can result in State Agency violation points or sanctions or disqualification from the Utah WIC program.
- g. **REDEMPTION OF COUPONS**
 - i. In accordance to the Utah State Tax Commission administrative rule R865-19S-68(D), qualifying WIC purchases are exempt, whether or not a manufacturer's coupon is used and no sales tax is due on the purchase or on the subsequent receipt by the retailer of reimbursement from the

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manufacturer. The methodology by which the retailer exempts the tax on the use of a manufacturer's coupon during a WIC transaction is at the discretion of the retailer. The WIC vendor is not permitted to deny the use of in-store or manufacturer's coupons when using WIC checks. WIC vendors must allow WIC customers to receive the same sale and promotional items as non-WIC customers as well as allowing the use of loyalty cards.

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FOOD INSTRUMENT DATA FIELDS

- (1) The WIC FOOD INSTRUMENT is valid within the First Day to Use and the Last Day to Use. *(Remember that these dates may not always be thirty (30) days apart, in fact, they may be less.)*
- (2) These are the WIC foods that may be purchased with this food instrument. The amounts listed are maximums. *(Remember, the WIC client does not have to purchase all of the food items. The WIC client can purchase less than the quantity specified)* No substitutions are allowed unless accompanied by a Special Food/Formula Letter on State Agency or Local Agency letterhead.
- (3) The store cashier **MUST** write the total purchase price using a black ink pen only. (DO NOT use a blue or other colored pen). **DO NOT** place a "\$" or a "¢" in front of or in back of the price. Place the total purchase price on the food instrument done **PRIOR** to obtaining the authorized signature. The participant cannot sign before or after all WIC transactions have been completed. ***Each food instrument transaction is completed separately.*** (Do not combine any food instruments)
- (4) Have the WIC client sign here **AFTER** placing the total amount on the front of the check. This signature **MUST** match any of the authorized signatures that appear on the WIC ID packet. If this signature **DOES NOT** match any of the authorized signatures on the WIC ID packet, the check **CANNOT** be accepted.
- (5) Place the combination WIC vendor identification number and date of transaction stamp on the "PAY TO WIC VENDOR (STAMP)" and the "DATE USED (STAMP)" box. **DO NOT HAND WRITE THE VENDOR NUMBER OR THE DATE OF TRANSACTION.** THE STAMP IMPRINTS **MUST BE WITHIN THE DESIGNATED BOX**

UTAH WIC FOOD INSTRUMENT

(2) Description of food items that can be purchased

(5) Place the combination WIC vendor identification number date of transaction stamp here

Quantity of the item that can be purchased

The form contains the following information:

- UTAH WIC PROGRAM, UTAH DEPARTMENT OF HEALTH, DIVISION OF FAMILY HEALTH & PREPAREDNESS, BOX 141013 • SALT LAKE CITY, UTAH 84114-1013
- VOID IF VENDOR DOES NOT HAVE A VALID UTAH WIC VENDOR AGREEMENT
- 75-1248 919 Acct #: 805319
- 70000182 First Date to Use: 4/1/2011 Last Date to Use: 4/30/2011
- 00000552 FID: 1000500173
- Clinic ID: 90-29006 Name: Jane Smith
- 1 (16-OZ) PRIVATE LABEL CHEESE -BULK- NO SLICES
- 4 (16-OZ) APPROVED CANNED BEANS/LENTILS
- 1 (GALLON) PRIVATE LABEL MILK SKIM, 1%, 2%
- 1 (QUARTS) PRIVATE LABEL MILK SKIM, 1%, 2%
- 1 (1.1.5/12OZ) SHELF STABLE OR FROZEN AUTHORIZED JUICE
- PAY TO WIC VENDOR (STAMP)
- DATE USED (STAMP)
- 700000 18 21 10 09 19 1 24 8 21 80 53 19

(1) First Day to Use and Last Day to Use

(3) Write total purchase price here (NO "\$" sign)

(4) Have WIC client sign here, ensuring this signature matches one of the signatures on the ID Packet

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CASH-VALUE VOUCHER DATA FIELDS

- (1) The WIC CASH-VALUE VOUCHER is valid within the First Day to Use and the Last Day to Use (*Remember that these dates may not always be thirty (30) days apart, they may be less.*)
- (2) These are the WIC fruits and vegetables that may be purchased with this cash-value voucher. **The cash-value voucher may be redeemed up to the maximum amount printed in the description line.** (*The cash-value maximum amounts will vary FROM \$6.00, \$10.00, or \$15.00*)
- (3) The store cashier **MUST** write the total purchase price of the actual transaction amount (*The actual cost of the fruits and vegetables*) using a black ink pen only. (DO NOT use a blue or other colored pen).
- (4) **DO NOT EXCEED THE MAXIMUM CASH-VALUE AMOUNT.**
- (5) **DO NOT** give cash back to the WIC customer if the difference is less than the maximum cash-value amount. The WIC customer is **NOT** permitted to pay any difference above the maximum cash-value amount. **DO NOT** place a "\$" or a "¢" in front of the price. Place the total purchase price on the check done PRIOR to obtaining the authorized signature. The participant cannot sign before or after all WIC transactions have been completed. **Each cash-value voucher transaction is completed separately.** (Do not combine any cash-value vouchers).
- (6) Have the WIC client sign here AFTER placing the total amount on the front of the cash-value voucher. This signature **MUST** match any of the authorized signatures that appear on the WIC ID packet. If this signature **DOES NOT** match any of the authorized signatures on the WIC ID packet, the cash-value voucher **CANNOT** be accepted.
- (7) Place the combination WIC vendor identification number and date stamp on the "PAY TO WIC VENDOR (STAMP)" and the "DATE USED (STAMP)" box. **DO NOT** HANDWRITE THE VENDOR NUMBER OR THE DATE OF THE TRANSACTION. THE STAMP IMPRINTS **MUST** BE WITHIN THE DESIGNATED BOX

UTAH WIC PROGRAM CASH VALUE VOUCHER

The voucher is a green document with the following fields and callouts:

- Callout (4):** Points to the "MAXIMUM VALUE" field, which is \$10.00. Text: "(4) DO NOT exceed the maximum cash-value voucher amount".
- Callout (2):** Points to the "FRESH FRUITS & VEGETABLES ONLY" line. Text: "(2) ONLY fresh fruit & vegetables can be purchased".
- Callout (1):** Points to the "First Date to Use" and "Last Date to Use" fields. Text: "(1) First Day to Use and Last Day to Use".
- Callout (3):** Points to the "PAY EXACTLY" field. Text: "(3) Write total purchase price here (NO '\$' sign)".
- Callout (5):** Points to the "PAY TO WIC VENDOR (STAMP)" and "DATE USED (STAMP)" fields. Text: "(5) Place the combination WIC vendor identification number date of transaction stamp here".
- Callout (6):** Points to the "SIGNATURE" field. Text: "(6) Have WIC client sign here, ensuring this signature matches one of the signatures on the ID Packet".

The voucher contains the following text:

UTAH WIC PROGRAM
UTAH DEPARTMENT OF HEALTH
DIVISION OF FAMILY HEALTH & PREPAREDNESS
BOX 141015 • SALT LAKE CITY, UTAH 84114-1015
VOID IF VENDOR DOES NOT HAVE A VALID UTAH-WIC VENDOR AGREEMENT
THIS DOCUMENT HAS A MICROPRINT BORDER AND A WATERMARK. ABSENCE OF THESE WILL INDICATE A COPY.

75-1248 919 Acct #: 805319 70000175
First Date to Use: 3/1/2011
Last Date to Use: 3/31/2011

00000557
FID: 1000500173

Pay EXACTLY \$

Pay TO WIC VENDOR (STAMP)

DATE USED (STAMP)

SIGNATURE

CLINIC ID: 90-2900 Name: Jane Smith
*****MAXIMUM VALUE \$10.00*****

FRESH FRUITS & VEGETABLES ONLY - INVALID FOR MORE THAN MAXIMUM VALUE

WATERMARK: SOLUTRAN

SMALLER NOT VALID MORE THAN 45 DAYS FROM FIRST DAY TO USE

PLEASE PRINT OR TYPE: Last Name, First Name, Middle Initial, Street Address, City, State, ZIP+4

11 70000 175 11 10919 1248 21 805319 11

F.18. Documentation of Vendor Sales/Inventory Data

Policy

Procedures regarding vendor sales/inventory data

Procedure

- I. **Vendor Documentation of Sales and Inventory Data:** The vendor must maintain inventory records used for Federal tax reporting purposes and other records the State Agency may require for the period of time specified by the State Agency in the Vendor Agreement. Upon request, the vendor must make available to the State Agency all program-related records. (7 CFR 246.12(h) (3) (xv) The vendor agrees to provide the following documentation (through IRS forms, financial records or other objective means - the book keeping record must be understandable (legible and logical); the book keeping record clearly reflect or corroborate the sales figure(s) that the vendor has declared; the book keeping or accounting record should cite the relevant sales figure(s)) upon State Agency request: monthly or annual food sales (Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) eligible food items) including infant formula sales; records of WIC foods purchased for a set period of time such as invoices, receipts, and bank deposits, inventory/ shelf price records of WIC food items, and Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) sales volume. The State WIC agency may request specific records to validate this information at any time during the agreement period. The vendor is responsible for the validity of this information and failure to provide any required sales data or providing false data will result in denial of or termination of the agreement.
 - a. The vendor must maintain invoices or receipts documenting the purchase of WIC food items from manufacturers, wholesalers, distributors, retailers or any other point of purchase, and any additional inventory records used by the vendor, including sales or tax records used for Federal or State tax purposes, and other business related records the State agency may require, for the current agreement period or a minimum of three (3) years.
 - b. Upon request, the vendor must make available to representatives of the State agency, the Department and the Comptroller General of the United States, at any reasonable time and place for inspection and audit, all checks in the vendor's possession and all program related records.

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F.19. Vendor Monitoring

Policy

Purpose, selection, and monitoring of Utah WIC vendors

Procedure

- I. The purpose of **vendor monitoring** and **follow-up** is to ensure high quality service to participants and to ensure compliance with Federal regulations and the Utah WIC Vendor Agreement. Both the State and local agency can conduct vendor monitoring or follow-up. Monitoring or follow-up will be determined by the State Agency depending on the location of the vendor and the type of visit. The local agency staff is not permitted to enter a store for any reason unless directed to do so by the State Agency.
 - a. **High Risk Vendors** – A vendor identified as having a high probability of committing a vendor violation through application of the criteria established in 7 CFR 246.12(j) (3) and any additional criteria established by the State agency.
 - i. High-risk vendors are determined to be potentially at risk for WIC Program violations. Possible high-risk vendors will be identified by the State agency on a monthly basis and will be designated by PRIORITIES I - V with PRIORITY I being the greatest potential for fraud and abuse through PRIORITY V having the least potential. Potential high-risk vendors are determined by redemption analysis, vendor monitoring/ follow up, alleged complaints, and/or any other objective means. Vendors that have been identified within a quarter will be assigned a compliance investigation. A high risk vendor will be assigned to one or more PRIORITIES based upon the following criteria:
 - ii. PRIORITY I A vendor will be identified as having the highest potential for fraud or abuse based on information obtained from redemption analysis, vendor monitoring, alleged complaints, and/or any other objective means which indicated the following potential problems:
 - (a) Exchanging WIC checks for cash, credit or consideration other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances;
 - (b) Exchanging WIC checks for alcoholic beverages or tobacco products;
 - (c) A pattern of:

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- Claiming reimbursement for the sale of an amount of a specified food item which exceeds the store's documented inventory of that food item for a specific period of time
- Exchanging cash or credit for WIC checks
- Receiving, transacting and/or redeeming WIC checks outside of authorized channels
- Accepting WIC checks from unauthorized persons
- Exchanging non-food items for a WIC check
- Charging WIC customers more for food than non-WIC customers or charging WIC customers more than current price shelf price
- Charging for food items not received by the WIC customer or for foods provided in excess of those listed on the checks
- Any other vendor problem that may indicate potential fraud of the WIC Program

iii. PRIORITY II

Extremely Small Amount of Variation in Food Instrument Prices -

Utilizing a minimum of 30 food instruments vendors are sorted by the highest percentage where the variation of prices within their FIs are below a threshold level. The high risk standard deviation threshold will be set at 0.1 The High Risk percentage threshold will be set at 50%. Cash-value vouchers and those food instruments with only infant formula will be excluded. (Vendor Management Reports; General Reports; Display FI Report Number Contents) **[A]**

Extremely Large Percent of Food Instrument Redeemed at the Same Price (Cash-Value vouchers excluded)

Utilizing a minimum of 30 food instruments vendors are sorted by the highest percentage where the prices are the same within a group of Food Instruments that contain the same food. Vendors will be marked on the report as potentially high risk based on the value of the parameter labeled High Risk Percentage Same Price Threshold at 50%. Cash-value vouchers and those food instruments with only infant formula will be excluded. (Vendor Management Reports; General Reports; Display FI Report Number Contents) **[B]**

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Combination Report - Utilizing a minimum of 30 food instruments this report will show the vendors sorted by the highest 'score'. The 'score' is a combination of the weighted values of factors [A], [B], and [C] high risks added together to the calculated values of each query based high risk. The calculated combination value exceeds 15,000.

iv. PRIORITY III

Extremely Large Volume of High Priced Food Instruments (Extremely High Average FI Prices) Utilizing a minimum of 30 food instruments vendors are sorted by the highest percentage of high priced FIs based on the FI's standard deviation being above a threshold level. The High Risk Percentage Threshold level is defined by 10. The interval is 1. Above the threshold is set at 5. Vendors will be marked on the report as potentially high risk based if they have any FIs above the value of this parameter. Cash-value vouchers and those food instruments with only infant formula will be excluded. (Vendor Management Reports; General Reports; Display FI Report Number Contents) **[C]**

Extremely Large Volume of High Priced Food Instruments Report

Utilizing a minimum of 30 food instruments this report will show the vendors sorted by the highest percentage of high priced FIs based on three standard deviation being above a threshold level and weight 100%. Vendors will be marked on the report as potentially high risk based if they have any FIs above the value of this parameter. **[E]**

v. PRIORITY IV

Extremely Large Increase in the Dollars Redeemed over Time Report

- Utilizing a minimum of 30 food instruments vendors are sorted by the highest percentage based on the variation of sales over the time period of the report. Vendors will be marked on the report as potentially high risk when the interval is monthly; number of periods 2, and the variance is greater than 150%. **[G]**

vi. PRIORITY V

Identify any month within the federal fiscal year of those vendors who receive a pattern of any other type of complaint not addressed in PRIORITY I (not involving fraud or Civil Rights) and/or those vendors with excessive check errors that involve seven (7) or more State Agency violation points.

b. Routine Monitoring

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- i. The State Agency shall select at least 5% of all authorized WIC Vendors to be monitored per year based on a representative sample (7 CFR 246.12)
- ii. Monitoring Routine Sample Vendors
 - (1) The local agencies will be informed at the beginning of each Fiscal Year of the Routine sample vendors selected for their area that they will need to monitor during that year. Monitoring forms for this type of visit may include the following: the **Vendor Monitoring Instrument**, **Vendor Inventory Requirement Verification Form**, and the **Food Price Reporting List**. The Local Agency shall submit these identified forms to the State Agency, retaining a copy of the monitoring instrument in the vendor file.
 - (2) If any of the vendors on the Routine Sample leaves the WIC Program or are disqualified and they have not been monitored during that fiscal year, that vendor must be replaced with another vendor. Please contact the State Agency if this occurs.
- c. Vendor Monitoring and Follow-up/Training Procedures
 - i. When a vendor problem has been identified by the State Agency as needing follow-up or specified training, the local agency will utilize a **Local Agency Vendor Monitoring Follow-up form** and/or the **WIC Training Report**. This will verify that the vendor has been adequately trained and/or corrected any problems. These forms shall be submitted to the State Agency within thirty (30) days. A copy is retained for the local agency vendor file.
 - II. The local agency retail coordinator will retain copies of all documents including post-tests that are completed for any routine monitoring or three-year interactive training. The originals **or electronic copies** will be sent to the State Agency and the copy kept in the local agency's vendor files.
 - III. **The local agency/clinic has the option to send electronic copies (PDF format) of all forms by email to the State Vendor Management Coordinator rather than send a hard copy. Scanning and emailing of all documentation is highly recommended.**
 - IV. Routine vendor monitoring or three-year interactive training that is not received by the State Agency due date will be considered a finding during the local agency's management evaluation.

F.20. Documentation for Monitoring Visits

Policy

Proper review and documentation of vendor monitoring visits

Procedure

I. Routine Monitoring

- a. Assure the vendor there are not any specific problems, they have been randomly selected out of all the vendors in the State to be monitored. The **Vendor Monitoring Instrument**, **Vendor Inventory Requirement Verification Form**, and the **Food Price Reporting List** are required to be completed.
- b. The WIC vendor staff member is required, unless previously accomplished or directed otherwise by the State agency, to perform the three (3) year on-site interactive training during the vendor Routine sample and the high-risk on-site visit
- c. If any of the vendors on the Routine Sample leaves the WIC Program or are disqualified, and they have not been monitored during that fiscal year, that vendor must be replaced with another vendor. Please contact the State Agency if this occurs.

II. Vendor Monitoring – General Instructions

- a. MAKE SURE the vendor understands that if WIC Program violations continue, their store may be identified for compliance purchases that may lead to State Agency violation points, sanctions, or suspension/ disqualification. If the vendor is suspended or disqualified from WIC because of fraud or program abuse, they could be also suspended or disqualified from the Supplemental Nutrition Assistance Program (SNAP/FOOD STAMP PROGRAM) as well.
- b. You must document your discussion of any problems and/or violations discovered during the visit on either the **WIC Vendor Monitoring Instrument** or **WIC Vendor Training Report**. THE IMPORTANCE OF THIS DOCUMENTATION IS CRITICAL TO THE INTEGRITY OF ANY FUTURE COMPLIANCE PURCHASE.
- c. After discussing any specific problems, go through the **Vendor Monitoring Instrument** with the manager and one additional person. Note any other potential problems.

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- d. If the manager is unavailable, talk with the assistant manager, or head cashier. Also be sure to talk with other cashiers. Ask them if they are having any problems or have any questions.
- e. Walk through the store, checking on the quantity and variety of WIC foods. Conduct a price survey using the **Food Price Reporting List** and **Vendor Inventory Requirement Verification Form**. If the price of a WIC food commodity is found to be excessive, go back to the manager and discuss the situation at this time.
- f. Before leaving make sure you have documented all concerns and discussions of any problem areas along with possible violations and follow up if needed.
- g. REMEMBER to conduct the three (3) year interactive training during any Routine monitoring on-site visit UNLESS otherwise directed by the State Agency or if these required trainings have been accomplished.

III. All vendor monitoring visits (routine or follow-up) must be documented.

- a. The following forms are required for routine monitoring: **Vendor Monitoring Instrument**, **Vendor Inventory Requirement Verification Form**, and **Food Price Reporting List**. Document the required areas of training on the **Vendor Monitoring Instrument**. For follow-up visits, the **Local Agency Vendor Follow-up Form** should be completed. If the follow-up discrepancy relates to inventory or pricing, then a **Food Price Reporting List** needs to be completed.
- b. After discussion and any required training is completed, obtain the store representative's signature at the bottom of page 3 of the *Vendor Monitoring Instrument*.

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F.21. Vendor Education/Training and Guidance

Policy

Guidance regarding vendor education and training

Procedure

I. Vendor Education/Training & Guidance

- a. Education/training is provided to vendors through vendor modules, manuals, video/DVD, computer based training, and on-site visits by either the State or local WIC vendor management staff.
- b. The vendor or corporate offices are not permitted to develop any additional Utah WIC training materials other than those supplied by the Utah State Agency without approval in writing from the Utah WIC Program. The vendor or corporate offices are not permitted to edit or change any WIC training material supplied by the State Agency.
- c. All new WIC staff assigned to the position of Local Agency Retail Coordinator must complete the Vendor Management Module for Local Agency Retail Coordinators within 90 days and must be trained by State vendor management staff before conducting any vendor training or monitoring.
- d. Each Local Agency Retail Coordinator will be required to complete the Vendor Management Module for Local Agency Retail Coordinators and pass the post-test every fiscal year. If the individual has not completed the module, then they should not be conducting vendor training or monitoring.
- e. State staff will provide technical assistance to local retail coordinators in the proper completion of vendor monitoring and training. The State Office will be responsible for providing training to the local agencies on effective vendor education methods. This will ensure uniform vendor education procedures are conducted statewide. Vendor education and training is designed to prevent program errors and violations and to improve program service.
- f. Required Vendor Education is to be conducted for the following reasons:
 - i. Any non-compliance with the Utah WIC Vendor Agreement
 - ii. Required interactive training every three (3) years.
 - iii. Vendor requests training
 - iv. Vendor is newly authorized (initial training)

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- v. Vendor is identified for Routine Monitoring (in these cases the Local Agency/State Agency conducts both vendor monitoring and vendor training).
- vi. Vendor has accumulated **ten (10)** or more violation points for any reason.
- vii. Required training as directed by the State Agency (The State Agency will determine the type and method of training)
- g. If the vendor is being seen for any on-site visit, the three (3) year interactive training should be accomplished at the same visit (unless otherwise directed by the State Agency or if these required training(s) have already been accomplished).

II. **General Training Procedures**

Initial Training [new vendor], Routine Monitoring [random sample], and Three-Year Interactive Training

- a. Vendor Training is to be conducted by either a State retail trainer/coordinator or Local Agency Retail Coordinator who have completed the Vendor Management Module for Local Agency Retail Coordinators within the current fiscal year.

For initial [new vendor] on-site evaluation and training the WIC retail representative will use:

Three (3) Year Interactive Training PowerPoint presentation or slides outline
Authorized WIC Foods booklet (Food Card)

Checklist for Initial Vendor Training Form

Attendance Record for Vendor Training,

Initial Evaluation Form for New WIC Vendors

Vendor Inventory Requirement Verification Form

Training Module for Cashiers

WIC Vendor Training Manual

Bookkeeper's Information Sheet

Manual for Bookkeeping and Cash Office Staff

Utah Vendor Video/DVD

WIC Vendor Agreement

Vendor memos from the current fiscal year.

New vendor training is to be provided to the store manager, store trainer and the bookkeeper. Other personnel, such as cashiers and other personnel who conduct WIC transactions should be invited to attend. It is important to offer to train the rest of the store personnel before you begin the training. If other personnel are not planning to attend, you must stress to the manager his/her

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responsibility to train other store personnel in accordance with the Utah Vendor Agreement.

For Routine Monitoring the WIC retail representative will use:

*Vendor Monitoring Instrument Vendor Monitoring Instrument
Vendor Inventory Requirement Verification Form
Food Price Reporting List.*

For Three-Year Interactive Training, the retail representative will use the following materials and forms:

*Three (3) Year Interactive Training PowerPoint presentation or slides outline
Authorized WIC Foods booklet (Food Card)
Attendance Record for Vendor Training
Checklist for Three (3) Year Interactive Training
Post-tests for Three (3) Year Interactive Training*

And will use as references:

*WIC Vendor Training Manual
Training Module for Cashiers
Bookkeeper's Information Sheet
Manual for Bookkeeping and Cash Office Staff
WIC Vendor training DVD
WIC Vendor Agreement
Vendor memos from the current fiscal year.*

All store employees who handle WIC transactions and the bookkeeper will be receive the Three (3) Year Interactive Training. (The WIC Vendor Training Representative is permitted to allow a store trainer to train any employee who is ill or on vacation during the scheduled time).

For any State identified follow-up Visit, the retail representative should use:

Local Agency Vendor Follow-up Form

For any other type of Training Visit, the retail representative should use:

*WIC Vendor Training Report
Attendance Record for Vendor Training*

- i. The State/local agency retail coordinator should set up an appointment with the storeowner or manager. The retail representative visits the store taking the appropriate forms. Try to have the training take place in a quiet area where there will be few interruptions.

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- ii. The following items should then be reviewed and discussed as appropriate to the problems identified or requested to be covered. **(Remember, all items must be covered on initial evaluation and Three (3) Year Interactive training sessions):**
 - (a) **Review Vendor Authorization/Qualifications** - (required for all new vendors, 3-year Interactive Training, or those with difficulties in renewal of their agreements)
 - (b) **Review WIC Food Inventory Requirements** (required for all new vendors, 3-year Interactive Training, or those with complaints/violation points regarding non-inventory of WIC food items)
 - (c) **Review Authorized WIC Foods** - (required for all new vendors, 3-year Interactive Training, or those with complaints/violation points regarding unauthorized foods)
 - (d) **Review WIC Cashing Procedure at Time of Purchase** - (required for new vendors, 3-year Interactive Training)
 - (e) **Review Proper Method of Transaction** - (required for new vendors, 3-year Interactive Training)
 - (f) **Review Utah WIC Vendor Agreement** - (required for new vendors, 3-year Interactive Training, those having difficulty meeting renewal qualifications, and those with complaints/violation points regarding specific sections of the Vendor Agreement)
 - (g) **Review Current State Agency Memos since last Agreement Revision** - (required for all new vendors, 3-year Interactive Training, or those who may not have been informed by a general mailing)
 - (h) **Review of Vendor High Risk Tracking System and Collection of Apparent Overcharges** - (required for new vendors, 3-year Interactive Training, and those that need to understand the high risk selection process, those vendors who have received violation points)
 - (i) **Review How to Report Abusive Participants** - (required for new vendors, 3-year Interactive Training, and those vendors who need to understand the reporting procedures of an abusive WIC participant)
 - (j) **Review Frequently Asked Questions** - (required for new vendors, 3-year Interactive Training, and those who need to review these procedures)

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- (k) **Review Compliance Buys** - (required for new vendors, 3-year Interactive Training, and during routine monitoring)
- (l) **Review How to Obtain Assistance and Answer any Additional Questions** - (required for new vendors, 3-year Interactive Training, routine monitoring, and encouraged to review during any training opportunities)
- (m) **Review Vendor Complaint Process** - (required for new vendors, 3-year Interactive Training, and those who need to understand the Fair Hearing Process)
- (n) **Complete all Appropriate Documentation for Visit**
- (o) Explain that the Vendor Training Manual is for them to keep on file for future referral. There will be updates to this manual each year or as needed.
- (p) Ask if there are any questions and thank the vendor for their time.

III. Required Annual Training

- a. Annual vendor training will be provided by the State Agency through self-paced instruction modules with a post-test for all employees. The State agency will ensure that the Annual Training Requirement is completed for all Utah WIC authorized vendors.
- b. The annual training must include instruction on: (7 CFR 246.12(i) (2))
 - i. The purpose of the Program;
 - ii. The supplemental foods authorized by the State agency;
 - iii. The minimum varieties and quantities of authorized supplemental foods that must be stocked by the vendors;
 - iv. The requirement that vendors obtain infant formula only from sources included on a list provided by the State Agency;
 - v. The procedures for transacting and redeeming checks;
 - vi. The State Agency violation points and sanction system;
 - vii. The vendor complaint process;
 - viii. The claims procedures;

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- ix. The State Agency's policies and procedures regarding the use of incentive items;
- x. Use of the WIC Acronym and Logo
- y. Any changes to program requirements since the last training.
- c. The standard training presentation for the Utah WIC Program will be the **WIC Training Module for Cashiers** with completion of the post-test. Post-tests will be collected and sent to the State agency when the training is finished.
- d. Any alternative training from the standard training must be authorized by the State Agency.

IV. Required Three (3) Year Interactive Training

- a. The three (3) year interactive training must be in an interactive format that includes a contemporaneous opportunity for questions and answers. The State or local agency must coordinate the date, time, and location of the interactive training with the vendor. This training is required for all employees who handle WIC transactions. (Train-the trainer is generally only permitted with corporate training). The State or local agency must accommodate the vendor's schedule when setting up this training. The State or local agency cannot require the store to have all employees attend the same training session. **This means that the training may need to include a second training session on the same or different day depending on the needs of the vendor.** In addition, the vendor will be allowed to use a train-the trainer for those employees that are ill, on vacation or cannot be available for the on-site training. State or local agency must provide vendors with at least one alternative date on which to attend interactive training at a mutually agreeable time between the vendor and representative.
- b. Examples of acceptable vendor interactive training include on-site cashier/associate training or off-site classroom-style. The standard training presentation for the Utah WIC Program will be **the state created Three (3) Interactive Training PowerPoint Presentation or slide outline. This will be used in order to provide a consistent message statewide.** The Attendance Record for Vendor Training, and the Three (3) Interactive Checklist will be utilized, and completion of the post-test. Post-tests will be collected and sent to the State agency when the training is finished.
- d. The State or local agency must document the content of and vendor participation in vendor training. (7 CFR 246.12(i) (4) with the **Three (3) Interactive Checklist, Attendance Record for Vendor Training, and Three year Interactive Training** post-tests. If the Three (3) Year Interactive Training is being performed in

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- conjunction with a monitoring visit, the three (3) interactive checklist and post-test(s) will need to accompany the monitoring instrument and food price reporting list.
- e. The Three (3) Year Interactive Training requirement should be conducted during any Routine Sample unless otherwise directed by the State agency unless this required training has been accomplished.
 - f. Teleconferencing cannot be utilized to satisfy the three (3) year Interactive training requirement. All three (3) year training will be face-to-face.
 - g. SNAP (Food Stamp Program) and the WIC Program have no legal obligation to provide materials in multiple languages. The WIC Program has undertaken an effort to provide some basic training materials in the form of video/DVD to those of limited English proficiency. The WIC Program holds the retailer responsible for providing or bringing an interpreter for on-site visits, communication or questions with the State WIC office or Local WIC Agency, initial or renewal of agreement applications; required training sessions, or other meetings, as necessary.
 - h. The vendor is responsible to inform and train cashiers and other staff on program requirements. The vendor is accountable to ensure all employees who handle WIC transactions are trained on WIC redemption procedures once the initial pre-authorization training visit has been accomplished unless the vendor notifies the State or local agency to provide such training.
 - i. The vendor or the local WIC agencies/clinics are not permitted to electronically copy or photocopy any checks from State Agency training materials or from State or local agency websites without permission from the Utah WIC Program.

F.22. Compliance/Educational Purchase System and Inventory Audits

Policy

Selection and procedures for compliance purchase of Utah WIC Vendors

Procedure

I. Compliance Purchase System

- a. The Utah State Agency's compliance purchase system is designed for covert verification and documentation of WIC Program violations committed by authorized WIC vendors in order that appropriate State Agency violation points or sanctions may be imposed. A compliance purchase is defined as two negative or three positive purchases with WIC checks using an investigative individual posing as a WIC participant in order to verify and document WIC Program abuse or fraud. The investigative agent (posing as a WIC participant) will attempt to obtain evidence that the vendor will allow a WIC Program violation or fraud to be committed at that specific vendor location. Vendors selected for investigation will be based on high risk PRIORITIES I - V (redemption analysis findings, monitoring, complaints, etc.) or at random.
- b. The WIC State office shall decide based on the type of violation, statistical and financial significance of the violation and criteria for investigations whether any type of purchase investigation will be performed prior to authorizing such investigations, and whether an educational purchase (similar to a compliance purchase, but with the vendors/store managers prior knowledge) may precede compliance purchasing. The local WIC agencies cannot initiate any covert investigations of WIC vendors, including, but not limited to the actual purchase of WIC products at the vendor, without written approval from the State Agency.
- c. Compliance Purchase Selection
 - i. The Utah WIC Program will conduct compliance purchases on a minimum of five percent (5%) of the total WIC vendors authorized at the beginning of the Federal Fiscal Year.
 - ii. If the number of vendors identified through high risk does not meet the required five percent (5%), then vendors may be selected at random.

II. Compliance Purchase Policies

- a. The investigative (contracted) agency will appoint an investigator who will be the person that will enter the store and attempt the compliance purchase. The

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- investigator will review the vendor's file and become familiar with any problems with the vendor.
- b. Training and education will be provided by the State Agency to the investigator prior to the compliance purchase. The investigator will become familiarized with the area the vendor is located if possible. This training will include:
 - i. Not to invoke sympathy or try in any way to convince or coerce the cashier to allow any possible non-authorized foods to be purchased.
 - ii. The fact that they may be embarrassed and if it does become embarrassing or hostile, to leave the store immediately.
 - iii. Exactly what to purchase and the procedures for cashing a WIC check.
 - c. The investigator assigned to the case will complete as much of the WIC Investigation Report form as possible prior to the visit to the vendor.
 - d. The investigator will be issued a WIC ID Packet by the State Agency along with WIC checks. These checks will be generated by the computer for this purpose. Copies of these checks will be attached to the Investigation Form.
 - e. The investigator will drive to the vendor's place of business. The investigator observes and notes the time he/she enters the store.
 - f. The investigator will:
 - i. Record the number of check stands.
 - ii. Select the items he/she has been instructed to purchase.
 - iii. At the second compliance visit, if possible, a different cashier from first visit should be used for checkout procedures.
 - iv. The investigator will tell the cashier before the items are rung up that she is a WIC participant and will be using WIC checks. If the investigator is told she cannot purchase any unauthorized food items, she should return them and pick up the items listed on the WIC checks or requested by the vendor.
 - v. The investigator will take the receipt and the items purchased, leave the store, and complete the appropriate documentation.
 - vi. Immediately following the purchase the investigator will complete the WIC Investigation Report. The receipt and any change from the transaction will be given to the State Agency. The food items purchased will be submitted to the State Agency along with photographs of the food items (unless otherwise directed).
 - vii. At the last compliance buy, the investigator will photograph the store front upon the final departure.
 - g. Number of Compliance Purchases
 - i. A positive transaction is one in which the investigator is allowed to purchase unauthorized food items, non-food items, exchange cash,

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commit fraud, or any violation of the Utah WIC Vendor Agreement. A negative transaction is one in which no violations occur.

- ii. Three positive transactions will result in the case being closed. Violation points or sanctions will be imposed.
- iii. Two negative transactions will result in the case being closed. Violation points or sanctions will not be imposed.
- iv. There will always be at least two compliance purchases made at a particular vendor unless the State Agency decides otherwise.
- v. If there is one negative and one positive transaction, an additional compliance purchase will have to be made in order to determine if there have been two negative or three positive transactions.

h. Follow Up Procedures

- i. The State Agency will retrieve a copy of the checks used in the compliance transaction after redemption to be used as evidence.
- ii. The State Agency vendor file will include:
 - 1. Any reports or complaints that were used to select the vendor for compliance purchase.
 - 2. The Investigation Report.
 - 3. Any receipts from the transaction and the checks used for the transaction.
 - 4. Any document of prior warnings or vendor visits.
 - 5. The letter sent to the vendor notifying the vendor of the compliance purchases and whether or not any violation points or sanctions were imposed.
 - 6. Any correspondence from the vendor regarding the case, including documentation of phone contact.
 - 7. Any material relating to a Fair Hearing if one is requested, including the decision of the hearing officer.
- iii. All items that are bought with the WIC checks are to be photographed. Non-perishable items will be retained by the State Agency for thirty (30) days after notification of the vendor if violation points or sanctions are to be imposed. Perishable items will be donated to charity by the State Agency (or as directed by the State Agency) after photography and verification signatures have been obtained by either an investigator or a supervisor. If no request is made for a Fair Hearing by this time, the items are to be donated to charity. If a request is made for a Fair Hearing, the items are to be retained by the State Agency to be used as evidence at the hearing. In the case of negative investigation, all items will be donated to charity as soon as possible.
- iv. If the compliance purchase is found to be a positive investigation (three positive transactions) the vendor will be notified by a certified letter of any violation points or sanctions that will be imposed and the right to a fair hearing.

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- v. If the compliance purchase is found to be a negative investigation (two negative transactions) the vendor will be notified by a certified letter that a compliance purchase investigation took place and they were found to be in compliance.
- vi. The State Agency will notify the Regional FNS office of any vendors suspended or terminated. If the store involved is a chain store, the District Manager will be notified. Finally, the suspension or termination of a vendor as a result of a compliance investigation may be publicly advertised if it is determined that this will be beneficial to the overall attitudes towards the Utah WIC Program.

III. Educational Purchase System

- a. The Utah State Agency's educational purchase system is designed for the determination of WIC Program violations committed by authorized WIC vendors in order that appropriate training can be conducted to correct the discrepancies found. An educational purchase is defined as one or more purchases with WIC checks using an individual posing as a WIC participant in order to determine any WIC Program violations. The investigative agent (posing as a WIC participant) will attempt to obtain evidence that the vendor will allow a WIC Program violation committed at that specific vendor location. Vendors are selected for educational purchases investigation based on requests by store managers or directors who wish to verify compliance of WIC transaction procedures or recommendations by the State or local WIC agency to a specific vendor for training purposes.
- b. Unlike the compliance purchase system, the vendor is informed that the purchase will take place in their store and may have requested the educational purchase for training purposes.
- c. A State or local agency retail coordinator will be present in the store or in the parking lot (if the representative feels their presence will distract from the purchase) while the educational purchase is being conducted. Immediately after the purchase is completed the retail coordinator will discuss the results with the investigator. The retail coordinator will contact the store manager or director, discuss the results, and provide training as appropriate. This training will be documented on the WIC Vendor Training Report form. Details of the purchase will be forwarded to the State agency with the investigator completing the same forms as with a compliance purchase.
- d. The State agency will require training in any of the discrepancy areas found if not already accomplished after the educational purchase. The vendor has thirty (30) days in which to schedule this training after being notified by the State WIC agency.

IV. Inventory Audits

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- a. Inventory audits can be used when undetected access to the vendor is not likely or compliance purchases are otherwise not feasible to determine alleged fraud or abuse of the WIC Program.
- b. An inventory audit is a comparison of the quantity of WIC food items from the beginning of a month with the quantity of WIC food items at the end of the month, minus sales receipts to non-WIC customers and redeemed WIC food instruments during that same period. If the comparison demonstrates that a vendor's transactions exceeded the amount of WIC food items available for sale, the vendor may have overcharged the WIC program.
- c. Procedures for conducting an inventory audit
 - i. Two (2) retail coordinators, of whom one will be from the State agency, must conduct the store audit. When visiting the store, the investigators will advise store management that they are conducting a monitoring visit that will include counting inventory as part of the on-site visit.
 - ii. The investigators will do a count of each WIC item except peanut butter, peas and beans. The other investigator will verify the count. Both investigators must agree on the count. Once the count is agreed upon, then it is documented.
 - iii. Ask the vendor if any WIC food instruments have not yet been deposited. Record any food instrument numbers not yet deposited by the vendor. If the food instruments are at another location, have the vendor call the State agency with the numbers. These food instruments will be excluded from the audit.
 - iv. Document a **Food Price Reporting List** and complete the standard **Vendor Monitoring Instrument** and required training. It is recommended that one investigator complete the monitoring while the other completes the store audit.
 - v. Before leaving the vendor, review the forms with the manager/director, have them sign, and date the forms. Make sure that the vendor's entire WIC inventory has been seen, counted, and properly recorded. Check with the store's manager/director to ensure that the store's entire WIC inventory has been counted. Vendors often keep WIC items in stockrooms or other locations with the confines of the store. Ensure that the vendor is given proper credit for their entire inventory.
 - vi. If any discrepancies were noted on the store monitoring instrument form, go over them with the store manager/director. Advise the store owner or director that any discrepancies noted must be corrected as discussed.
 - vii. Revisit the store at the end of the inventory audit period. Again, use the Vendor Monitoring Instrument and Food Price Reporting List. As with the first visit, two (2) investigators conduct the monitoring form and inventory audit. Count the same WIC inventory as before. The investigator completing the monitoring instrument will obtain copies of the vendor's receipts, invoices, and bank deposits for those food items over the period

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of time designated for the audit. If the records are not available, the manager or director will be asked to send them to the State agency within ten (10) working days. Failure to provide these documents will be considered a violation of the Vendor Agreement.

- viii. All food instruments redeemed during that period of time will be reviewed by the State agency. The State agency will provide the following calculations:
1. Beginning inventory + Vendor's invoices = Total available for sale.
Total available for sale – Ending inventory = Total sold.
 2. Compare total sold of each item to those totals obtained from redeemed food instruments and sales receipts. If the total exceeds the total sold by the vendor then multiply the exceeded amount by the lowest retail price obtained during the visits to determine the overcharge amount.

F.23. Vendor Violation Points and Sanctions

Policy

Federal Required Mandatory Disqualifications, State Agency Violation Points, State Agency Sanctions, and the application of suspension, disqualifications, and civil money penalties

Procedure

I. Vendor Violation Points and Sanction Procedures

- a. The State Agency shall determine the type and level of sanctions to be applied against food vendors based upon the severity, nature and *pattern* of the Program violations observed, and such other factors as appropriate (for example: whether the offenses represented vendor policy or whether they represent the actions of an individual employee who did not understand the Program Rules).
- b. The State Agency does not have to provide the vendor with prior warning that violations were occurring before conducting compliance purchases or imposing any of the State Agency violation points or sanctions described.
- c. If a State Agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a sanction, the State Agency will notify the vendor of the initial violation in writing prior to documentation of another violation, unless the State Agency determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation. The State Agency will document in the vendor file the reason why the notification would compromise the investigation. The State Agency may conduct another compliance buy visit after the notification of violation is received by the vendor, or presumed to be received by the vendor, consistent with the State Agency's procedures for providing such notification.
 - i. A notice may not be given if the investigation is covert, such as a compliance buy investigation, which involves an investigative agent posing as a WIC participant and transacting WIC checks. In such circumstances, the notice would reveal the existence of an investigation which had been previously unknown to the vendor. Notification is also not required for violations involving a vendor's redemptions exceeding its inventories, since there are no initial violations in such instances. Notification is not required for WIC vendor disqualifications or civil money penalties based on Supplemental Nutrition Assistance Program (SNAP/FOOD STAMP PROGRAM) sanctions. Neither is notification required for violations that only require one incidence before a sanction is imposed). Notification is not required if such notice could compromise covert investigations of the vendor being conducted by the Supplemental Nutrition Assistance Program (SNAP/FOOD STAMP PROGRAM), the USDA Office of the

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Inspector General, the State Police, or other authorities, as well as the WIC investigation being conducted by the State agency; the term “investigation” does not exclusively refer to WIC investigations.

- ii. Such notice will include violations for a pattern of: overcharging; receiving, transacting and/or redeeming checks outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person; charging for supplemental food not received by the participant; providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for checks; or providing unauthorized food items in exchange for checks, including charging for supplemental foods provided in excess of those listed on the check. This notice requirement also applies to any violations for which a pattern of violations must be established in order to impose a State agency vendor sanction per 7 CFR 246.12(l) (2).
- iii. In making the determination regarding notification of the vendor, there are a number of factors which the State agency will review – for example, the severity of the initial violation, the compliance history of the vendor, or whether the vendor has been determined to be high risk consistent with 7 CFR 246.12(j)(3). The State agency has the discretion to determine which factors to consider and how much weight should be assigned to each factor. If the State agency decides not to send the notice, the basis for this decision will be documented in the vendor file.

d. Establishing a pattern of violations.

- i. Mandatory Federal Disqualifications: Those Mandatory Federal Sanctions identified as requiring a pattern are assigned a disqualification based on at least three (3) independent documented repeated violations during any compliance investigation.
- ii. State Agency Sanctions: All State Agency sanctions require documentation of a pattern of the same violation. A pattern of violations can be based on at least three (3) independent documented violations during any compliance investigation, or at least three (3) documented independent violations obtained through objective data or other non-compliance purchase investigations during a ninety (90) day period. The vendor will be provided a warning letter after each of the first two violations and given a fifteen (15) day period in which to take corrective action after each warning letter.
- iii. The State agency may assign violation points based on the first finding of a State agency-established violation as long as such points do not result in a State agency sanction, i.e., a disqualification or monetary penalty / fine. Violation points operating in the same manner as initial violations do not violate the requirement that State agency sanctions may only be imposed based on a pattern of violative incidences.

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- iv. When conducting inventory audits, a pattern can be established during a single review of the vendor's redemption records depending on the magnitude of shortfalls and the period of time over which they occur.
- v. A pattern of violations does not need to be present when applying a permanent disqualification, a six (6) year disqualification and the sale of alcohol or alcoholic beverages or tobacco products in exchange for checks.
- e. When more than one violation is detected during a single investigation, the disqualification period will be based on the most serious violation.
- f. The State Agency may not accept voluntary withdrawal of a vendor from the WIC Program as an alternative to disqualification.
- g. Any vendor who commits fraud or abuse of the Program is liable to prosecution under applicable Federal, State or local laws. Those who have willfully misapplied, stolen or fraudulently obtained program funds will be subject to a fine of not more than \$25,000 (Public Law 105-336) or imprisonment for not more than five (5) years or both, if the value of the funds is \$100 or more. If the value is less than \$100, the penalties are a fine of not more than \$1,000 or imprisonment for not more than one (1) year or both. (CFR §245.12 (h) (3) (xx))

II. **Mandatory disqualification periods are assigned for the following WIC violations in according to 7 CFR 246.12:**

- a. **Permanent Disqualification from the WIC Program**
 - i. A vendor convicted of trafficking in checks or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for checks.
 - ii. Permanent Disqualification from the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program)
- b. **Six (6) Year Disqualification from the WIC Program**
 - i. One incidence of buying or selling checks for cash (trafficking); or
 - ii. One incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for checks.
- c. **Three (3) Year Disqualification from the WIC Program**
 - i. One incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for checks;
 - ii. A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time;
 - iii. A pattern of vendor overcharges;

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- iv. A pattern of receiving, transacting and/or redeeming checks outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;
 - v. A pattern of charging for supplemental food not received by the participant; or
 - vi. A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for checks.
- d. **One (1) Year Disqualification from the WIC Program**
 - i. A pattern of providing unauthorized food items in exchange for checks , including charging for supplemental foods provided in excess of those listed on the check.
- e. **Second Mandatory Sanction**
 - i. When a vendor, who previously has been assessed a sanction for any of the mandatory sanctions listed above, receives another sanction for any of these violations, the State agency must double the second sanction. Civil money penalties may only be doubled up to the limits allowed as defined by this agreement
- f. **Third or Subsequent Mandatory Sanction.**
 - i. When a vendor, who previously has been assessed two or more sanctions for any of the mandatory sanctions listed above, receives another sanction for any of these violations, the State agency must double the third sanction and all subsequent sanctions. The State agency may not impose civil money penalties in lieu of disqualification for third or subsequent mandatory sanctions.
- g. **Disqualification from the WIC Program Based on a Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) Disqualification.**
 - i. The State agency will disqualify a vendor who has been disqualified from the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program). The disqualification will be for the same length of time as the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) disqualification. The WIC disqualification may begin at a later date than the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) disqualification, and is not subject to administrative or judicial review under the WIC Program.
- h. **Civil Money Penalties in Lieu of Disqualification**
 - i. The State agency may impose a civil money penalty in lieu of a permanent disqualification when it determines, in its sole discretion and documents that

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1. Such action would result in inadequate participant access;
2. The vendor had, at the time of the violation, an effective policy and training program in effect to prevent trafficking; and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation. Any documented policies must have been dated in written form and the training documented prior to the violation;
- ii. The State agency may impose a civil money penalty in lieu of a six (6) to one (1) year mandatory disqualification when it determines, in its sole discretion and documents that such action would result in inadequate participant access.
- iii. If the State Agency permits a vendor to continue to participate in the Program in lieu of permanent disqualification, the State Agency shall assess the vendor a civil money penalty in an amount determined by the State Agency and in accordance with the following criteria:
 1. The maximum amount of civil penalty shall not exceed \$11,000 for each violation and \$44,000 for the total amount of civil money penalty or fines for multiple violations occurring during a single investigation.
 2. If a vendor does not pay, only partially pays, or fails to timely pay (includes failure to pay with an installment plan) a civil money penalty within thirty (30) days of receipt of a notification letter, the State Agency will disqualify the vendor for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed.
- iv. Formula for calculation of civil money penalties: multiply average redemptions by 10%; multiply result by the number of months for which the vendor would be disqualified.
- v. The State Agency may allow an installment plan to be utilized for the payment of civil money penalties provided that the installment plan is in compliance with Federal and State laws concerning the collection of interest on such debts.

III. State Agency Violations and Points for Violations

- a. Violation points can be assigned for a pattern of any violation or based on the first finding of a State agency-established violation as long as such points do not result in a State agency sanction, i.e., a disqualification or monetary penalty / fine, that is documented during any redemption analysis, monitoring visit(s), other formal visit(s) or follow-up of previous problems, inventory audits, or any other objective means.
- b. All State Agency warnings and violation points are cumulative and will be kept current for a period of two (2) years as long as the vendor is authorized on the Program. Warnings and violation points accrued for each violation will be

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- dropped two (2) years after the date of the violation regardless of a renewal of a vendor agreement. The Utah WIC program will not remove any State agency violation points unless it is determined by any objective means, fair hearings, and/or judiciary declarations that these points need to be removed.
- c. Food vendors may be subject to violation points in addition to claims for improper redemption, overcharged checks, or reimbursement for overcharges.
 - d. The State agency may impose a civil money penalty (CMP) in lieu of a State Agency disqualification sanction ~~when it determines, in its sole discretion and documents that such action would result in inadequate participant access.~~ The Civil Money calculation and collection will be the same as stated under the mandatory disqualifications and sanctions in accordance with 7 CFR 246.12.
 - e. The maximum amount of penalty for State Agency violations shall not exceed \$11,000 for each violation and \$44,000 for the total amount of civil money penalty or fines for multiple violations occurring during a single investigation.
 - f. If the vendor is assigned or accumulates greater than five (5) violation points in any two-year period, the vendor will be required to submit a corrective action plan outlining the steps that will be taken to address the violations that were documented.
 - g. The following violations are assigned specific State Agency violation points and sanctions. State Agency violation points and sanctions are commensurate with the number of points accumulated for one or more of these violations in any combination:

Any combined total of:

- 5 – 9 points** = Initial or follow-up warning letter **with required corrective action plan.**
- 10 - 14 points** = Follow-up warning letter with required training.
- 15 -17 points** = State Agency Sanction - 3 month disqualification **or CMP**
- 18 - 19 points** = State Agency Sanction - 6 month disqualification **or CMP**
- ~~**18 – 19 points** = State Agency Sanction - 9 month disqualification~~
- 20 or > points** = State Agency Sanction - 1 year disqualification **or CMP**

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- 1) Failure to attend or complete mandatory training sessions as outlined in the WIC Vendor Agreement after one mutual opportunity to reschedule..... 15
 - 2) **A finding of Civil Rights** discrimination against a WIC participant (~~including filing a complaint with~~ **as determined by** the Office of Adjudication and Compliance) and/or failure to serve a WIC Client without a **justified** judicial or legal basis..... 15

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- 3) Failure to provide purchase invoices from the wholesaler and/or other points of purchase, and/or inventory records and/or documentation of sales data during monitoring visits or when requested to do so by the State Agency... 10
- 4) Providing infant formula that was not purchased from the State Agency approved wholesalers, distributors, and/or retailers or through infant formula manufacturers registered with the Food and Drug Administration that provide infant formula 10
- 5) Failure to maintain adequate inventory of WIC foods in accordance to the peer group of Vendor identified during three compliance purchases or per finding during any monitoring or any store on-site visits after being given one opportunity to correct the inadequacy..... 8
- 6) Knowingly requesting or providing cash, credit, or non-food items in the exchange of WIC checks or knowingly providing cash, credit, or non-food items in substitution of WIC food items in lieu of or exchange of WIC food items returned to the store purchased with WIC checks 8
- 7) Failure to reimburse/refund the State Agency for an overcharge after a thirty day notification 8
- 8) Failure to provide and document training to all employees who handle WIC transactions or failure to allow monitoring or training of the vendor by WIC representatives or failure to submit a corrective action plan 8
- 9) Failure to provide checks for review when requested during monitoring of the vendor..... 8
- 10) **A pattern of charging** a price for any WIC eligible food item which has exceeded the average cost plus three standard deviations of the same WIC eligible food item in other WIC authorized vendors in the same peer group **after a warning has been given for the specific food item price** **8 5**
- 11) Requiring cash to be paid in whole or part to redeem checks 8
- 12) **A pattern of** charging sales tax on WIC food items 8
- 13) Using the WIC acronym or logo, service mark, or close facsimiles in the name of the vendor, for any advertising, promotional material, and incentives; using tags or labels with the WIC acronym or logo, service mark, or close facsimiles on WIC-approved products; using channel strips or shelf-talkers with the WIC acronym or logo, service mark or close facsimiles without State Agency approval **after a warning has been given**. 8

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- 14) The vendor **intentionally** amended, adjusted, corrected, blotted out, or made markings over or concealed any validations or adjustment documentation (written or stamped) made by the State Agency on the original WIC check or on any electronic copies of the WIC check. 8
- 15) The vendor provided incentives or promotions inconsistent with the provisions in the Utah WIC Vendor Agreement 8
- 16) Knowingly entering false information or altering information on the WIC check 8
- 17) **Verifiable** discourteous treatment of a WIC participant **or a pattern of allegations of such treatment** 5
- 18) Limiting the number of checks that could be redeemed at the authorized vendor 5
- 19) Contacting WIC participants to correct discrepancies as a result of non-payment or in an attempt to recover funds for checks not paid by the State Agency or those checks where refunds were requested for overcharge 5
- 20) **A pattern of** failure to ask for the Utah WIC ID Packet at the time of transaction to verify signatures on the face of the check with the Utah WIC ID Packet verified through objective evidence such as compliance purchases. 5
- 21) **A pattern of** providing unauthorized food items, food items not described on the check, non-food items, cash, or credit (including rain checks) in exchange for checks 5
- 22) The vendor attempted to redeem a WIC check in which the dates or the quantities/sizes of WIC prescribed foods or signatures have been altered and/or additional items have been typed or written on the front. 3
- 23) **A pattern of** prices not clearly marked on food items or shelf 3
- 24) Failure to provide current prices on WIC food commodities during monitoring visits or when requested to do so by the State Agency 3
- 25) **A pattern of** stocking or selling out of date and/or inconsumable WIC food commodities to WIC participants. This will include any WIC product that has a specific expiration date, sell by, best if sold by or similar wording with a date printed on the container. 3
- 26) Duplication or using an unauthorized, lost, or stolen stamp..... 3

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- 27) A pattern of redemption of a brand name food item when a store brand/private label is identified on the Utah WIC Authorized Food Card 3
 - 28) Non-matching date stamped on check compared against actual date transacted if imprinted on the back of the check or verified by another method 3
 - 29) A pattern of three or more attempted redemptions or redemption of WIC checks not in accordance with the redemption procedures within any calendar month and greater than or equal to 1% of all checks redeemed or attempted to be redeemed by the vendor being rejected for any reason within the calendar month. (Inappropriate redemption includes: accepted outside of authorized dates; date on check does not match redemption date on back; missing authorized signature; missing total amount; accepted above the maximum allowable reimbursement amount [food instruments] or above the fixed maximum value [cash-value vouchers] as outlined in the WIC vendor agreement and WIC vendor training materials) 2
 - 30) Submitting WIC checks for redemption missing the vendor identification stamp equal to or greater than ten (10) WIC checks within any calendar month and greater than or equal to 1% of all checks redeemed by the vendor being rejected for any reason within the calendar month 2
 - 31) Failure to accept a certified letter or leave a certified letter unclaimed from the State WIC Agency 2
 - 32) A pattern of asking the WIC participant to place the authorized signature on the front of the check (s) before the purchase price has been written on the check 2
 - 33) Requesting a WIC participant to produce any additional forms of ID other than the WIC ID Packet when redeeming WIC checks 2
 - 34) Failure to report a lost or stolen stamp within two (2) working days 2
 - 35) A pattern of failure to allow an authorized Utah WIC food item to be purchased 2
 - 36) Any failure to comply with the Utah WIC Vendor Agreement as stated in the Vendor Responsibilities or any failure to comply with the redemption procedures not otherwise noted 2
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- h. The vendor will be notified in writing regarding any points assessed and the type of violation(s) found.

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- i. All vendors with 10-14 State Agency violation points will be required to receive training by the State or Local Agency on the violation(s) in question within thirty (30) days of the notice of awarding the violation points. This training will be documented and sent to the State WIC Office.
- j. The Utah WIC Program shall provide the appropriate FNS (Food and Nutrition Service) Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program) office with a copy of the notice of administrative action and information on vendors it has either imposed a civil money penalty in lieu of disqualification or disqualified from the WIC Program based in whole or in part of any act which constitutes a violation of that program's regulation and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:
 - i. A pattern of claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time
 - ii. Exchanging cash, credit or consideration other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances, as defined in section 802 of title 21 of the United States Code, for checks;
 - iii. A pattern of receiving, transacting and/or redeeming WIC checks outside of authorized channels
 - iv. A pattern of exchanging non-food items for a WIC checks
 - v. A pattern of charging WIC customers more for food than non-WIC customers or charging WIC customers more than current shelf price
 - vi. A pattern of charging for food items not received by the WIC customer or for foods provided in excess of those listed on the checks
- k. Prior to disqualifying a food vendor, the State Agency will consider whether the disqualification would create undue hardships for WIC participants. An undue hardship will be defined as if there is no other WIC authorized vendor within twenty (20) miles. In deciding whether or not to postpone adverse action until a hearing decision is rendered, the State Agency may consider any other relevant criteria in addition to the above.
- l. The State Agency will terminate this agreement on not less than thirty (30) days written notice due to: 1) changes in the present agreement which would require all authorized vendors to complete a new agreement; 2) failure of the vendor to fulfill in a timely and satisfactory manner, its obligations under this agreement; 3)

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- unavailability or decrease in federal and/or state funding; 4) participant caseload management to effectively manage funding in which the vendor with the highest cost per food package will be terminated and where such termination would not affect participant access as defined in this agreement; 5) a change in the Federal Regulations or recommended change which results in the necessity to decrease the number of vendors to maintain a cost-effective Program or alters the way vendors are selected, qualified, accumulation of violation points, disqualification; and 6) fraud or abuse of the WIC Program as described in the Agreement.
- m. All vendors participating in the Utah WIC Program have the right to a Fair Hearing when any adverse action (i.e. violation points, denial of payment, disqualification or denial of application) could affect the vendor's participation in the WIC Program. Expiration of a contract or agreement with a food vendor is not subject to appeal. Requests for a Fair Hearing must be made within thirty (30) days from the date of the notice of adverse action. Direct all requests for a Fair Hearing to the State WIC Office.
 - n. **Referral to law enforcement authorities.** When appropriate, the State must refer vendors who violate program requirements to Federal, State, or local authorities for prosecution under applicable statutes.

F.24. Food Delivery for the Homeless

Policy

Food packages and food delivery for the homeless

Procedure

- I. Where the storage of perishable foods is not a problem for the participant, the standard food package and checks will be utilized.
- II. Where the storage of perishable foods is difficult or non-existent, a separate specified homeless food package or exchange items will be issued instead of the standard food package.

F.25. Administrative Review of State Agency Actions

Policy

Definition and procedures of full and abbreviated administrative reviews of State Agency actions against vendors

Procedure

- I. **Except as provided elsewhere in this section, the State agency must provide full administrative reviews to vendors that appeal the following adverse actions:**
 - a. Denial of authorization based on the application of the vendor selection criteria for minimum variety and quantity of authorized supplemental foods (7 CFR 246.12(g)(3)(i)), or on a determination that the vendor is attempting to circumvent a sanction (7 CFR 246.12(g)(6));
 - b. Termination of an agreement for cause;
 - c. Disqualification; and
 - d. Imposition of a fine or civil money penalty in lieu of disqualification
- II. **Adverse actions subject to abbreviated administrative reviews.** The State agency must provide abbreviated administrative reviews to vendors that appeal the following adverse actions, unless the State agency decides to provide full administrative reviews for any of these types of adverse actions:
 - a. Denial of authorization based on the vendor selection criteria for business integrity or for a current Supplemental Nutrition Assistance Program/Food Stamp Program disqualification or civil money penalty for hardship (7 CFR 246.12(g)(3)(iii) and (g)(3)(iv));
 - b. Denial of authorization based on the application of the vendor selection criteria for competitive price (7 CFR 246.12(g)(4));
 - c. The application of the State agency's vendor peer group criteria and above-50-percent status determinations, are subject to administrative review, when the application for this criteria is the basis for adverse action (denial of authorization or termination of agreement for cause). However, the peer group and above-50-percent criteria are not subject to review, only the application of the criteria;
 - d. Denial of authorization because a vendor submitted its application outside the timeframes during which applications are being accepted and processed as established by the State agency under 7 CFR 246.12(g)(7);

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- e. Termination of an agreement because of a change of ownership or location or cessation of operations (7 CFR 246.12(h)(3)(xvii));
 - f. Disqualification based on a trafficking conviction (7 CFR 246.12(l)(l)(i));
 - g. Disqualification based on the imposition of a Supplemental Nutrition Assistance Program/Food Stamp Program civil money penalty for hardship (7 CFR 246.12(l)(2)(ii));
 - h. Disqualification or a civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State agency (7 CFR 246.12(l) (2) (iii).
 - i. A civil money penalty imposed in lieu of disqualification based on a Supplemental Nutrition Assistance Program/Food Stamp Program disqualification under 7 CFR 246.12(l)(1)(vii).
 - j. Denial of an application based on a determination of whether an applicant vendor is currently authorized by the Supplemental Nutrition Assistance Program/Food Stamp Program.
 - k. Vendors who are denied authorization because the State Agency determines that they are expected to be above-50-percent vendors (7 CFR 146.18 (a) (1) (ii).
- III. **Actions not subject to administrative reviews.** The State agency may not provide administrative reviews pursuant to this section to vendors that appeal the following actions:
- a. The validity or appropriateness of the State agency's vendor limiting criteria (7 CFR 246.12(g)(2)) or vendor selection criteria for minimum variety and quantity of supplemental foods, business integrity, and current Supplemental Nutrition Assistance Program disqualification or civil money penalty for hardship (7 CFR 246.12(g)(3));
 - b. The validity or appropriateness of the State agency's selection criteria for competitive price (7 CFR 246.12(g)(4)), including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above-50- percent vendors or comparable to above- 50-percent vendors;
 - c. The validity or appropriateness of the State agency's participant access criteria and the State agency's participant access determinations (7 CFR 246.18(a)(1)(iii);

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- d. The State agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation (7 CFR 246.12(l)(1)(i)(B)).
 - e. Denial of authorization if the State agency's vendor authorization is subject to the procurement procedures applicable to the State agency;
 - f. The expiration of a vendor's agreement;
 - g. Disputes regarding check payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error, as permitted by 7 CFR 246.12(k)(3);
 - h. Disqualification of a vendor as a result of disqualification from the Supplemental Nutrition Assistance Program/Food Stamp Program (7 CFR 246.12 (l)(1)(vii)) and
 - i. The validity and appropriateness of the State Agencies criteria for determining whether a vendor applicant is expected to be an above-50-percent vendor (7 CFR 246.12(a) (1) (iii) (A) and (B)).
 - j. The State agency's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list required pursuant to 7 CFR 246.12(g)(11);
 - k. The State agency's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction, pursuant to 7 CFR 246.12(l)(3)
- IV. **Effective date of adverse actions against vendors.** The State agency must make denials of authorization and disqualifications imposed under 7 CFR 246.12(l) (1) (i) effective on the date of receipt of the notice of adverse action. The State agency must make all other adverse actions effective 30 days after the date of the notice of the adverse action or, in the case of an adverse action that is subject to administrative review, no later than the date the vendor receives the review decision.
- V. **Full administrative review procedures** The State agency must develop procedures for a full administrative review of the adverse actions listed in this section. At a minimum, these procedures must provide the vendor with the following:
- a. Written notification of the adverse action, the procedures to follow to obtain a full administrative review and the cause(s) for and the effective date of the action. When a vendor is disqualified due in whole or in part to violations in 7 CFR 246.12(l) (1), such notification must include the following statement: "This disqualification from may result in disqualification as a retailer in the

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Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program). Such disqualification is not subject to administrative or judicial review under the Supplemental Nutrition Assistance Program (SNAP/Food Stamp Program)."

- b. The opportunity to appeal the adverse action within a time period specified by the State agency in its notification of adverse action.
 - c. Adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review.
 - d. The opportunity to present its case and at least one opportunity to reschedule the administrative review date upon specific request. The State agency may set standards on how many review dates can be scheduled, provided that a minimum of two review dates is allowed.
 - e. The opportunity to cross-examine adverse witnesses. When necessary to protect the identity of WIC Program investigators, such examination may be conducted behind a protective screen or other device (also referred to as an "in camera" examination).
 - f. The opportunity to be represented by counsel.
 - g. The opportunity to examine prior to the review the evidence upon which the State agency's action is based.
 - h. An impartial decision-maker, whose determination is based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the evidence presented at the review. The State agency may appoint a reviewing official, such as a chief hearing officer or judicial officer, to review appeal decisions to ensure that they conform to approved policies and procedures.
 - i. Written notification of the review decision, including the basis for the decision, within 90 days from the date of receipt of a vendor's request for an administrative review, and within 60 days from the date of receipt of a local agency's request for an administrative review. These timeframes are only administrative requirements for the State agency and do not provide a basis for overturning the State agency's adverse action if a decision is not made within the specified timeframe.
- VI. **Abbreviated administrative review procedures.** Except when the State agency decides to provide full administrative reviews for the adverse actions listed in this section, the State agency must develop procedures for an abbreviated administrative review of the adverse actions listed in this section. At a minimum, these procedures must provide the vendor with the following

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- a. Written notification of the adverse action, the procedures to follow to obtain an abbreviated administrative review, the cause(s) for and the effective date of the action, and an opportunity to provide a written response; and
 - b. A decision-maker who is someone other than the person who rendered the initial decision on the action and whose determination is based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the information provided to the vendor concerning the cause(s) for the adverse action and the vendor's response; and
 - c. Written notification of the review decision, including the basis for the decision, within 90 days of the date of receipt of the request for an administrative review. This timeframe is only an administrative requirement for the State agency and does not provide a basis for overturning the State agency's adverse action if a decision is not made within the specified timeframe.
- VII. ***Continuing responsibilities.*** Appealing an action does not relieve a local agency or a vendor that is permitted to continue program operations while its appeal is in process from the responsibility of continue compliance with the terms of any written agreement with the State agency.
- VIII. ***Finality and effective date of decisions.*** The State agency procedures must provide that review decisions rendered under both the full and abbreviated review procedures are the final State agency action. If the adverse action under review has not already taken effect, the State agency must make the action effective on the date of receipt of the review decision by the vendor or the local agency.
- XI. ***Judicial review.*** If the review decision upholds the adverse action against the vendor or local agency, the State agency must inform the vendor or local agency that it may be able to pursue judicial review of the decision.

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F.26. Use of the WIC Acronym and Logo

- I. WIC authorized vendors are not permitted to use the WIC Acronym and logo, or close facsimiles, in the name of the vendor.
- II. WIC authorized vendors are only allowed to use the WIC Acronym and logo or close facsimiles, signage in the size as provided by the State Agency. The WIC authorized vendor cannot produce their own signage.
- III. WIC authorized vendors cannot use the WIC Acronym or Logo or close facsimiles in any store advertising, incentives, and other promotional material.
- IV. Use of the WIC acronym or logo, service mark, or close facsimiles prior to authorization in the name of the vendor, for advertising, promotional material, or incentives will cause a non-authorization status for the next ninety (90) days from the notification of the inappropriate usage. 7 CFR 246.12(g)
- V. The WIC authorized vendor cannot use or apply any stickers, tags, or labels that have the WIC acronym or logo on WIC-approved products. The State Agency will restrict the use of channel strips or shelf-talkers with WIC acronym or logo to only those provided or approved by the State Agency.
- VI. The State Agency has established State Agency violation points and sanctions for service mark violations pursuant to 7 CFR 246.12(l)(2). See the F.23, State Agency Violation Points and Sanctions section.
- VII. WIC Vendor compliance with the policies regarding the use of the WIC Acronym and logo will be evaluated at the initial on-site authorization visit, any other on-site visit regardless of the reason, during educational or compliance purchase visits, and by any other objective means.
- VIII. All food new manufacturer contracts, including rebate contracts, entered into by the State Agency will include the following provisions:
 - a. Manufacturer acknowledges that the WIC Acronym and Logo are service marks owned by the USDA, and that all rights therein and goodwill pertaining thereto belong exclusively to USDA.
 - b. Manufacturer shall not use these service marks in any manner on its goods or their containers or packaging or on tags or labels affixed thereto. Manufacturers also shall not use the WIC Logo in advertising or other promotional materials.
 - c. Manufacturer shall not use the WIC Acronym in advertising in any manner that is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Manufacturer with the WIC Program, or as to the sponsorship or

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approval of Manufacturer's goods, services, advertising, or commercial activities, including nutritional messages, by the WIC Program, USDA, or the State Agency.

- d. Manufacturer shall include the following statement with any use of the WIC Acronym in advertising: "WIC is a registered service mark of the U.S. Department of Agriculture for USDA's Special Supplemental Nutrition Program for Woman, Infants and Children."

F.27. Use of Incentives and Promotions

- I. WIC authorized vendors may not offer incentive items solely to WIC participants in an effort to encourage participants to redeem their WIC checks at their stores. Section 246.12(h)(3)(iii) of the Federal WIC regulations requires vendors to offer Program participants the same courtesies that are offered to non-WIC customers. Therefore, a WIC-authorized vendor may not treat WIC customers differently by offering incentive items that are not offered to non-WIC customers.
- II. Vendors must offer WIC program participants and non-WIC customers the same store promotions and sale items, this includes use of loyalty cards. Any vendor who knowingly refuses to provide a promotion or discount to a WIC customer is in violation of the vendor agreement.